

# Airdrie Sheriff Court



SLAB  
Legal Services Department  
DX 555250  
EDINBURGH 30



Sheriff Clerk's Office  
Sheriff Court House  
Graham Street  
Airdrie  
ML6 6EE

DX 570417 / LP7

Our Ref:CB

15 March 2017

Your Ref:JDH/cs – TAX-52

Dear Sir/Madam

NOTE OF OBJECTIONS TO AN ACCOUNT OF EXPENSES (incurred by Lunny & Co.  
[REDACTED] (Civil LARN C403891014)) DL

Please find enclosed a copy of Sheriff Galbraith's note following on from the taxation appeal.

Yours faithfully

C Blackburn  
Sheriff Clerk Depute  
01236 751121 (Fax: 01236 747497)  
Airdrie@scotcourts.gov.uk

## NOTE

As indicated the crisp issue before the court is whether the Auditor in making his decision was entitled to consider the "other letters" sent by the firm. In other words to consider a comparator.

In determining this it is necessary to consider what function the Auditor was performing. The Auditor was engaged in this case on the basis of Regulation 12(1) of the Civil Fees Regulations 1989 which provides that:-

*"If any question or dispute arises between the Board and the Solicitor or Counsel as to the amount of fees or outlays allowable to the Solicitor, or as to the amount of fees allowable to Counsel, from the Fund under these regulations, other than regulation 11 above, the matter shall be referred for taxation by the Auditor".*

That is what happened here and I understand at taxation the dispute was confined to the appropriate amount to be paid for the six letters referred to.

There are two rates provided in the table for letters and the Auditor did not apply either of these. Instead he determined an amount he considered to be "reasonable".

In order to determine reasonableness he looked at the other letters. The question for this court is – was he entitled to do so.

The notes to the Regulations provide that:-

*"A Solicitor shall be allowed such amount of fees and outlays as shall be determined by the board to be reasonable remuneration for work actually, necessarily and reasonably done and outlays actually, necessary and reasonably incurred, for conducting the proceedings in a proper manner, as between solicitor and client, third party paying".*

Mr Lunny sought to persuade the court that that means with reference to the Regulations, in conducting the proceedings in a proper manner with reference only to these particular proceedings.

I cannot agree with that. The assessment and determination of reasonableness in my view would necessitate consideration by the Auditor of the letters sent out in other cases and I find that he was entitled to consider those other letters by way of comparison.

Accordingly the decision of the Auditor stands.



[REDACTED]  
Scottish Legal Aid Board  
Thistle House  
91 Haymarket Terrace  
Edinburgh  
EH12 5HE

Our Ref: LUNNY02-24/ML

E-mail:-  
mark@lunny.co.uk

**LP - 2, Edinburgh 7**

30 January 2017

Dear Sirs

Lunny & co taxation [REDACTED]  
Your Ref – C430891014

We refer to the above and enclose a copy of our Note of Objections which has been lodged at Airdrie Sheriff Court for your information.

Yours faithfully,

Lunny & Co



130 Windmillhill Street  
Motherwell  
ML1 1TA

Tel – 01698 269387  
Fax – 01698 537974

www.lunny.co.uk  
LP12 Motherwell

**SHERIFFDOM OF SOUTH STRATHCLYDE DUMFRIES AND GALLOWAY**  
**AT AIRDRIE**

Case Ref.

NOTE OF OBJECTIONS  
TO ACCOUNT OF EXPENSES  
INCURRED BY LUNNY & CO

*in causa*

Civil Legal Aid Account Ref C430891014 - [REDACTED] Lunny & Co having a place of business at 130  
Windmillhill Street, Motherwell, ML1 1TA

**PURSUER**

*against*

Scottish Legal Aid Board, Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HE

**DEFENDER**

The PURSUER objects to the taxation of the letters of 30<sup>th</sup> October 2014, 2 letters of 2<sup>nd</sup> December 2014, letter of 19<sup>th</sup> December 2014, letter of 15<sup>th</sup> January 2015 and letter of 28<sup>th</sup> January 2015 at a fee of £8.29. The PURSUER prepared their account on the basis of the Civil Legal Aid (Scotland) (Fees) Regulations 1989, Schedule 3. In terms of said regulations any letter under 4G is payable per page at a rate of £8.29 per page. Each page consists of 125 words or numbers. In terms of the regulations "a Solicitor shall be allowed such amount of fees....for work actually necessarily and reasonably done....for conducting the proceedings in a proper manner". The work undertaken was necessary for the conduct of the case. The work was done in a reasonable fashion and the terms of the letters were not deemed to be excessive. The work was therefore necessary and reasonably done for the conduct of the instant proceedings. The issue of similar work being undertaken in respect of other cases is irrelevant to the determination and as such said letters are a proper fee in the legal aid account.

IN RESPECT WHEREOF

.....  
Mark Lunny, Solicitor  
Lunny & Co  
130 Windmillhill Street  
Motherwell, ML1 1TA  
Tel: 01698 269387  
Fax: 01698 537974  
(Email) mark@lunny.co.uk  
**AGENT FOR THE PURSUER**

TAX-52



## Airdrie Sheriff Court

Scottish Legal Aid Board,  
Thistle House,  
91 Haymarket Terrace  
Edinburgh,  
EH12 5HE

**Sheriff Clerk's Office  
Sheriff Court House  
Graham Street  
Airdrie  
ML6 6EE**

DX 570417 / LP7

06 February 2017

Our Ref:

Your Ref:

Dear Sirs,

### **Note of Objections re Diet of Taxation**

**Legal Aid Ref: C430891014** [REDACTED]

I refer to the above and Mr Lunny's note of objections in relation to the taxation decision issued by Jim Hamilton. A hearing on the Note of Objections has been assigned for 2<sup>nd</sup> March 2017 at 10:00am within Airdrie Sheriff Court, Graham Street, Airdrie, ML6 6EE.

Yours faithfully,

Vari Anderson  
Sheriff Clerk Depute  
Tel 01236 439179  
vanderson@scotcourts.gov.uk

Sheriffdom of South Strathclyde Dumfries and Galloway at Airdrie

Taxation of Advice and Assistance Account

LARN: C430891014 – [REDACTED]

The diet of taxation was held on 8 October 2015. Mr Lunny appeared on behalf of Lunny & Co. Solicitors, Motherwell and [REDACTED] appeared on behalf of the Scottish Legal Aid Board.

There appeared to be some confusion at the start of the taxation in relation to what were the actual disputed entries in the account. Mr Lunny provided me with the following copy correspondence:

11 August 2015 - Letter from Lunny & Co. to SLAB (Appendix 1)

28 August 2015 - Letter from SLAB to Lunny & Co. (Appendix 2)

1 September 2015 – Letter from Lunny & Co. to SLAB (Appendix 3)

All of the aforementioned correspondence focused on work undertaken by unqualified persons, the fees for which were not being paid by SLAB. In the letter of 1 September 2015, Mr Lunny wrote "...I shall now on the basis of this misdirection, proceed with a taxation on all accounts where you seek to make this distinction.....".

[REDACTED] advised that the main issue was in the relation to the fees sought for certain letters. He had no idea of the other disputed matters. He referred to the e-mail of 6 October 2015 sent by his colleague to the Auditor and Mr Lunny. (Appendix 4)

This e-mail contained a number of attachments

- (a) Points of Objections (Appendix 5)
- (b) copy of Schedule 5 – Table of Fees Chargeable by Solicitors (Appendix 6)
- (c) Copy letter from Lunny & Co to SLAB dated 17 August 2015 (Appendix 7)
- (d) Copy letter from SLAB to Lunny & Co. dated 29 September 2015 (Appendix 8)
- (e) Decision by Auditor at Aberdeen – [REDACTED] (Appendix 9)
- (f) Decision by Auditor at Glasgow – [REDACTED] case (Appendix 10)

The aforementioned letter dated 17 August 2015 from Lunny & Co. to SLAB related to the restriction of fees for the preparation of certain letters.



██████████ offered payment in full for all disputed items within the account except for the letters. This was not accepted by Mr Lunny. ██████████ submitted that it was not for Mr Lunny not to accept this offer.

Mr Lunny then submitted that in his view, in terms of the Late Payment of Commercial Debts (Interest) Act 1998, he was entitled to seek statutory interest on the sums now due. Mr Lunny provided a copy of a paper titled "Late Payment Interest and Compensation: A Brief Guide by ██████████ dated 10 June 2014. (Appendix 11).

██████████ submitted this was not a matter for the Auditor to consider and not to allow same.

The taxation then proceeded to deal with the disputed entries in the account which related to the following matters:

30 October 2014: Letter to client advising grant of legal aid etc. (2 pages) £16.58 (Appendix 12)

2 December 14: Letter to ██████████ instructing AWI form 1 report etc. (2 pages) £16.58 (Appendix 13)

2 December 2014 Letter to ██████████ instructing AWI form 1 report etc. (2 pages) £16.58 (Appendix 14)

9 December 2014: Letter to ██████████ requesting completion of AWI form 8 (2 pages) - £16.58 (Appendix 15)

15 January 2015 Letter to client enclosing copy application etc. (5 pages) £41.45 (Appendix 16)

28 January 2015 Letter to client regarding correspondence from OPG etc. (2 pages) £16.58 (Appendix 17)

Mr Lunny had sought the fees as mentioned above in relation to this correspondence and SLAB had offered a 1 page non-formal charge of £8.29 for each letter.



██████████ referred to the points of objections lodged by SLAB (Appendix 5).

An excerpt from this note is narrated below:

**“Nature of dispute”**

Whilst there have been a number of abatements to the account as submitted to the Board, the question or dispute is a focused one and relates to certain abatements made in respect of pro-forma letters, that is letters in standard form which have been amended by the solicitors in parts to reflect the particular circumstances relating to the individual client, in this case ██████████. It is the practice of the Board, supported by various Auditor’s decisions over time, to pay the standard, unaltered pro-forma elements of the letter at the formal rate, and to pay those elements of the “mixed” letter that have been adjusted to reflect the particular circumstances of the case at the standard rate.”

He submitted that the standard of taxation to be applied was that the work undertaken was necessary and reasonably done. That standard was contained at Regulation 4 of the Civil Legal Aid (Scotland) (Fees) Regulations 1989.

Mr Lunny submitted the issue was that letters are to a degree standardised in so far as they require the same information to be given to different clients on different files and the same stage of process within the application. The fact that those letters are across different files should not preclude the fee sought.

Mr Lunny then referred to the auditors’ decisions relating to similar disputed matters, copies of which had been provided by SLAB – Appendices 9 and 10. He submitted there was a basic point which had not been raised namely:

Within the aforementioned 1989 Regulations, Schedule 5, Table of Fees, at 5(f) there was no reference to pro forma letters nor did it make provision for per page letters, whereas other entries did make such provision. Mr Lunny submitted that once a letter went beyond 125 words it became a long letter and should be payable at that rate. It was in his view not competent to say that the fee for a 2 page letter should be allowed as a formal letter fee.

Mr Lunny added that everyone worked from styles, however it was necessary to apply changes to the style when dealing with a specific case. His office had a system of producing similar letters but it still required him to review, update and change the letter. It was necessary for him to pay to have such a system. He also referred to a training course for new partners where “Marsh Ltd” recommended that agents should make sure they had styles of letters to send the right information to the right person at the right time. He contested that if he was supposed to compose a different letter on each occasion that would become a quality assurance issue.

On the subject of quality assurance, Mr Lunny commented on the positive comments received from SLAB when they had undertaken their audit reviews of his guardianship files. This matter had also been highlighted by Mr Lunny in his letter of 17 August 2015 to SLAB referred to earlier (Appendix 7).

Mr Lunny added that by using this computer system, the letter style was checked to ascertain what required to be altered. He also commented that one would be more likely to be dealing with someone who may not be fully competent and would require detailed information. In all of this process it was necessary to apply thought to the letter content as well as the cost of the computer system and relevant accessories eg. the printer and cartridge toners.

██████████ submitted that in his view the fee offered was reasonable. Whilst he appreciated that the letter style would require to be reviewed as described by Mr Lunny he did not believe computer costs were entirely relevant. He did not think it a reasonable argument that every time he required to frame a letter that it would be unique to that particular case.

██████████ then turned to the submissions made by Mr Lunny regarding the lack of any reference to pro forma letters etc. at regulation 5(f). He was of the view that the fees prescribed for a short formal letter. The word "short" was undefined and in his view there was nothing to stop a letter being less than one page.

██████████ referred me to the copy decisions by the Auditors of court at Glasgow and Aberdeen, (Appendices 9 and 10). He invited me to follow their decisions and allow a 1 page fee for each item of correspondence.

At the conclusion of submissions, the issue of payment of the lodging and audit fees was raised. When Mr Lunny originally lodged the account for taxation he submitted a cheque for £40.00 in respect of the lodging fee. When I had advised Mr Lunny of the taxation date and the audit fee due, he asked if he should have submitted a fee exemption certificate as his client was legal aided. I advised Mr Lunny that he should proceed to lodge these certificates and his cheque was returned to him. Mr Lunny then subsequently lodged fee exemption certificates for the lodging and audit fees.

██████████ was of the view that fee exemption was not appropriate in these matters.

At the conclusion of the taxation diet, Mr Lunny provided me with copies of the aforementioned disputed correspondence. I also requested that SLAB provide me with copies of similar correspondence in relation to other unrelated actions from Lunny & Co. for comparison. This correspondence was duly provided to both myself and Mr Lunny. (Appendices 18a to 18e).



### Auditor's decision

In relation to the dispute over the fees sought for the correspondence referred to below:

30 October 2014: Letter to client advising grant of legal aid etc. (2 pages) £16.58 (Appendix 12)

2 December 14: Letter to [REDACTED] instructing AWI form 1 report etc. (2 pages) £16.58 (Appendix 13)

2 December 2014 Letter to [REDACTED] instructing AWI form 1 report etc. (2 pages) £16.58 (Appendix 14)

9 December 2014: Letter to [REDACTED] requesting completion of AWI form 8 (2 pages) - £16.58 (Appendix 15)

15 January 2015 Letter to client enclosing copy application etc. (5 pages) £41.45 (Appendix 16)

28 January 2015 Letter to client regarding correspondence from OPG etc. (2 pages) £16.58 (Appendix 17)

Having considered the submissions from parties along with the additional documentation provided including the aforementioned copy correspondence, I am of the view that a one page fee of £8.29 is fair and reasonable for each item of correspondence.

The copy correspondence of the 6 letters issued by Lunny & Co. in relation this matter in comparison with the copy correspondence provided by SLAB was almost identical. The only difference being;

- (a) In the letter of 28 January 2015, there was reference to a specific meeting scheduled with the clients, whereas the copy comparison letter provided by SLAB indicated at the second paragraph, "If we have not spoken to you by the time you receive this letter please contact our office to arrange an appointment to discuss this important aspect of the procedure."

Whilst I appreciate Mr Lunny's comments that it was necessary to apply changes to the letter style when dealing with specific cases, from what I have observed the letters in question were of a standard content to be found in letters sent in other cases.

The only difference appeared to be the names of the individuals involved in the proceedings and the names of the recipients of the letters or the matter which I have referred to above regarding the letter of 28 January 2015.

I accept Mr Lunny's submission that in the aforementioned 1989 Regulations, Schedule 5, Table of Fees, at 5(f) there is no mention of pro forma letters. However in my opinion, it would not be fair and reasonable to allow the fees sought where it is clear that the letter content is of such similarity with other letters sent in other unrelated cases.

Turning to the submission by Mr Lunny of interest and late payment charge in terms of the Late Payment of Commercial Debts (Interest) Act 1998, I have already issued a decision on this matter at another diet of taxation requested by Mr Lunny – Taxation of Advice & Assistance Account: LARN: 5383875515 Re. Hughes – that decision being issued on 9 January 2017.

My decision in that taxation was that the question of statutory interest was not a matter for the auditor to decide upon. Accordingly, I have not accepted Mr Lunny's submission in this matter and I adhere to my decision made on 9 January 2017.

Finally, in relation to the question of submitting fee exemption certificates in respect of the lodging and audit fees, I think that I may have caused the confusion over this matter. When Mr Lunny e-mailed me to enquire if it was appropriate to lodge such certificates, I indicated that it was and returned his original cheque for the lodging fee.

It would appear that I confused this matter with civil proceedings in the sheriff court where a party is receiving civil legal aid in respect of the matter for which the fee is payable. The advice which I gave to Mr Lunny was incorrect. Payment by cheque or cash for the lodging and audit fees are due and the submission of a fee exemption certificate is not appropriate.

Given the undue delay in issuing my report, for which I apologise, it would not be appropriate to seek a lodging or audit fee and I do not intend to do so.

A handwritten signature in black ink, appearing to read 'J Hamilton', with a stylized, cursive script.

J Hamilton

Depute Auditor of Court, Airdrie

23 January 2017

POINTS OF OBJECTION

for

THE SCOTTISH LEGAL AID BOARD

on the account of

██████████  
LARN: C430891014

in relation to the fees incurred by

Lunny & Co, Solicitors, Airdrie

**Background**

The account lodged for taxation relates to proceedings in Airdrie Sheriff Court for the appointment of a guardian to ██████████ under the Adults with Incapacity (Scotland) Act 2000. Civil legal aid was granted to the assisted person, ██████████ on 28 October 2014.

**Relevant regulations**

The solicitor's account has been charged under Schedule 5 (detailed fees) of the Civil Legal Aid (Scotland) (Fees) Regulations 1989 ("the civil fees regulations"). A copy of Schedule 5 is attached.

There is no dispute that this is the correct basis on which to charge for the work undertaken under the legal aid certificate.

A question or dispute having arisen, the solicitor's account has been lodged for taxation in terms of regulation 12(1) of the civil fees regulations, which states:

*"12(1) If any question or dispute arises between the Board and the solicitor or counsel as to the amount of fees or outlays allowable to the solicitor, or as to the amount of fees allowable to counsel, from the Fund under these regulations, other than regulation 11 above, the matter shall be referred for taxation by the Auditor".*

A solicitor providing civil legal aid is entitled to fees and outlays in terms of regulation 4 of the civil fees regulations, which reads as follows:-

*"4. Subject to the provisions of regulations 5 and 7 regarding the calculation of fees, regulation 6 and 7 regarding the calculation of outlays, and the provisions of regulation 8 regarding the submission of accounts, a solicitor shall be allowed such amount of fees and outlays as shall be determined by the Board to be reasonable remuneration for work actually, necessarily and reasonably done and outlays actually, necessary and reasonably incurred, for conducting the proceedings in a proper manner, as between solicitor and client, third party paying".*

Regulation 8 is not engaged in that the solicitor's account has been lodged timeously.

## Nature of dispute

Whilst there have been a number of abatements to the account as submitted to the Board, the question or dispute is a focussed one, and relates to certain abatements made in respect of pro-forma letters, that is letters in standard form which have been amended by the solicitor in parts to reflect the particular circumstances relating to the individual client, in this case Ms Leslie. It is the practice of the Board, supported by various Auditor's decisions over time, to pay the standard, unaltered pro-forma elements of the letter at the formal rate, and to pay those elements of the "mixed" letter that have been adjusted to reflect the particular circumstances of the case at the standard rate.

The essence of the dispute is reflected in the attached correspondence, namely

- letter of 17 August 2015 from Lunny & Co to the Accounts Department; and
- letter dated 29 September 2015 from Accounts Department to Lunny & Co.

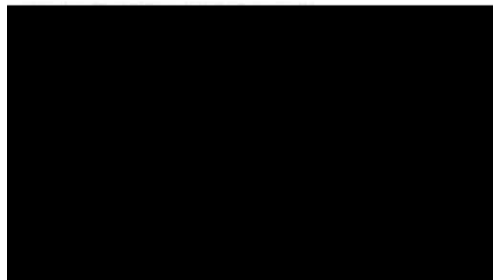
Copies of these letters are attached.

## Previous Auditor's decisions

As indicated above, the Board's approach has been supported by previous Auditor's decisions.

Two decisions are attached namely

- Decision of Auditor of Court, Aberdeen dated 10 December 2008 in connection with [REDACTED] and
- Decision of Auditor of Court, Glasgow dated 8 May 2012 in connection with [REDACTED]



Solicitor  
Scottish Legal Aid Board  
Thistle House, 91 Haymarket Terrace  
Edinburgh  
Solicitor for the Scottish Legal Aid Board



Messrs Lunny & Co  
Solicitors  
LP 12  
MOTHERWELL

Your Ref: LUNNY02-17/ML

Our Ref: JDH/lcs

Please quote the department above  
and our reference

1 October 2015

Dear Sirs

#### LEGAL AID ACCOUNTS

I refer to previous correspondence and, in particular, to your letter of 1 September 2015.

I have a fairly fundamental concern that the focus in your correspondence with the Accounts Department is on the definition of "unqualified person" as opposed to "qualified" as a pre-cursor to resolving issues relating to what is chargeable in your accounts is somewhat focussing on a false dilemma.

I suspect that there is nothing between us on the definition of qualified and the definition of unqualified. Put simply, "qualified" means a solicitor. An "unqualified" person means a person who is not a solicitor. Indeed, our legislation tends to refer specifically to a solicitor, which requires no further explanation. Equally, as you point out, the Tables of Fees tend to refer to a "solicitor's clerk". This is a fairly undefined term and we tend to talk in terms of an "unqualified" person.

None of this, however, is actually at the heart of the issue here. The real issue concerns a fact that in legal aid work, and indeed on all forms of legal services delivery, publicly-funded or not, the significant distinction to be made in the first instance is whether, within the prevailing regime applicable, thus the shorthand references to "qualified" and "unqualified" work is chargeable or not. That has to be resolved first. Once it is resolved, the issue of whether the work is charged at qualified or unqualified rates becomes relevant, but not before. By way of further support from the converse viewpoint, it is irrelevant as to whether work has been carried out by qualified or unqualified staff in circumstances where it is simply not chargeable.

I quite accept that the issue of whether work is chargeable or not may vary from circumstance to circumstance, and may indeed, in private client work, whilst not being chargeable on an agent and client, client paying basis, may yet be a matter of special agreement with the client. However you will be aware, as I am, that it is well established in the legal profession in Scotland that there is a fundamental distinction concerning what is chargeable to a client and what is not. I note, in passing, that the Law Society cost of



Time survey (to be found in the Scottish Law Directory, Fees Supplement) offers some elegant phrasing when it describes the structure thus:

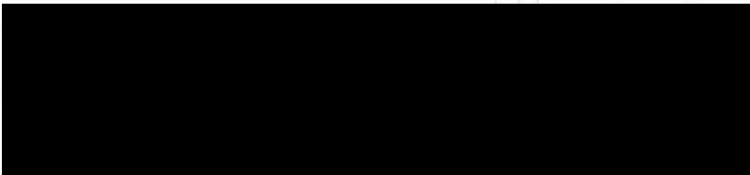
*"Fee-earners are those members of staff in an office who perform legal work directly attributable and chargeable to specific clients as opposed to staff members such as typists, receptionists, clerks and juniors who perform general work which cannot be charged directly to any specific client and whose cost is recovered as a general overhead".*

Equally, in the realm of legal aid (using the term broadly), on an agent and client, third party paying basis, a much less generous standard, there is chargeable work and there is work that is not chargeable. Where work is appropriately chargeable by a solicitor, and a solicitor may properly and competently delegate that to an unqualified person, that can be done, and we will pay the unqualified rate, subject of course to the usual requirement that work has been reasonably and necessarily done, and with due regard to economy. However, you should be clear that work not properly chargeable and abated by our Accounts staff is not chargeable for that reason and not for any reason related to whether it is carried out by a qualified or unqualified person. In the current context, as I understand it, we do not pay your receptionist to answer the phone, you do, as an overhead, from the fees that you earn from the Fund for the provision of advice and assistance.

We are currently finalising refreshed civil advice and assistance and ABWOR accounts guidance for solicitors. It is my understanding, once completed, that it will be shared with the Law Society giving us the opportunity to openly discuss this and other issues that may arise. The refreshed guidance shall deal more fully with issues relating to who may charge for work and the use of unqualified staff.

I hope that this clarifies our position.

Yours faithfully

A large black rectangular redaction box covering the signature area.

Accounts Verification Unit  
Thistle House  
91 Haymarket Terrace  
Edinburgh EH12 5HE

DX ED555250 EDINBURGH 30  
Legal Post LP2 EDINBURGH 7

Telephone 0131 226 7061  
Fax 0131 226 7675

Direct Number: 0131 2401978

Your Ref: LESLD02-01/ML

Our Ref: EG



Lunny & Co  
Solicitors  
LP 12  
MOTHERWELL

29 September 2015

Dear Mr Lunny

**DIANE LESLIE C430891014**

I acknowledge receipt of the intimation of the diet of taxation which has been fixed for the 8 October 2015 at Airdrie Sheriff Court.

I have also given consideration to your letter of 17 August 2015 responding to the abatements made to letters. The issue of bespoke and pro-forma components of a letter has previously been subject to taxation in Aberdeen; Glasgow and Livingston. The points you have made concerning the basis of charging have previously been argued unsuccessfully at taxation. Ultimately, the Auditor has discretion to decide the appropriate fee having regard to what they consider is reasonable. In the cases taxed the Auditors allowed the bespoke element of the letter at the non-formal rate and the pro-forma at the formal rate. The outcome of these decisions has resulted in this being a widely adopted practice and it is on this basis that the majority of firms tend to charge their letters and have done so for a number of years. When considering the appropriate letter charge we will have regard to the content, bespoke or otherwise, and therefore payment will depend on whether this is reasonable and necessary in the context of the particular case.

Your account has been assessed by [REDACTED] having regard to our guidance and practice; the outcome of taxations on this issue; what is now a widely adopted practice in the preparation of legal aid accounts; and the actual content of the letters claimed for.

In the circumstances, please confirm if you still wish to proceed to taxation on this issue.

Yours sincerely

[REDACTED]

Team Leader  
Accounts Verification Unit



**Lunny & Co  
Solicitors**

Accounts Department  
Scottish Legal Aid Board  
Thistle House  
91 Haymarket Terrace  
Edinburgh  
EH12 5HE

Our Ref: LUNNY02-17/ML

E-mail:-  
mark@lunny.co.uk

**RECEIVED**  
19 AUG 2015

**LP - 2, Edinburgh 7**

17 August 2015

Dear Sirs

Ref - C430891014  
Negotiated Payment

We refer to the above and negotiations undertaken in relation to this case. We note that in response to our letter of 30<sup>th</sup> October 2014, our letter to our client setting out circumstances following the grant of legal aid and next steps has been restricted from 3 pages to 1 page payment. The negotiation indicates that because the letter is similar in content to other letter sent to other clients this should therefore be restricted. We note this position is wrong in law. Clearly where a client is granted legal aid in relation to a case and the case is progressing a number of matters require to be addressed to the client. The fact that these matters are similar in relation to this and every client is irrelevant to the account in relation to this case. The terms of Schedule 3 make reference to 2 types of letter. As you will be aware, this is effectively known as a long letter or a short letter. Long letters are payable by page and the fact that similar letters are sent on similar cases repeatedly is irrelevant to the consideration. You will no doubt agree that clients in similar circumstances require to have similar sets of advice given to them. Whether or not the Solicitor uses a style or otherwise your quality assurance and indeed a professional responsibility would have an issue should we provide some clients with certain information and other clients different information. Whether a Solicitor uses a style or form for the letter that style or form requires to be drafted. IT requires to be assessed, redrafted repeatedly and ultimately adapted for each set of circumstances for each client. There is no provision for letters of this nature being paid on such a restricted basis.

Indeed we note that when assessed for quality assurance we have been commended for our level of communication with our clients and the information provided being of a high standard. Please explain on what basis you feel clients should not receive the high standard which your Inspectors require or alternatively why Solicitors should not be paid for the work they are properly doing.

Partner- Mark G Lunny LL.B. (Hons), Dip LP, NP


130 Windmillhill Street  
Motherwell  
ML1 1TA

Tel - 01698 269387  
Fax - 01698 537974

www.lunny.co.uk  
LP12 Motherwell

We understand that similar approaches have been taken in respect of a number of letters in respect of this account. It is now our intention to proceed to taxation unless we receive confirmation that you will make full payment in relation to this account.

Yours faithfully,



Lunny & Co