

## **PRACTICE DIRECTION – ADMISSIONS, EVIDENCE AND DEPOSITIONS**

*This practice direction supplements Part 14 of the Court of Protection Rules 2007*

### **PRACTICE DIRECTION C – FEES FOR EXAMINERS OF THE COURT**

#### General

1. This practice direction sets out:
  - (a) how to calculate the fees an examiner of the court (“an examiner”) may charge; and
  - (b) the expenses he may recover.

(Rule 108 provides that the court may make an order for evidence to be obtained by the examination of a witness before an examiner.)

2. Subject to any final order or direction of the court in relation to costs, the party who obtained the order for the examination must pay the fees and expenses of the examiner.

(Rule 110 permits an examiner to charge a fee for the examination and contains other provisions about his fees and expenses, and rule 111 provides who may be appointed as an examiner.)

#### **The examination fee**

3. An examiner may charge an hourly rate for each hour (or part of an hour) that he is engaged in examining the witness.
4. The hourly rate is to be calculated by reference to the formula set out in paragraph 6.
5. The examination fee will be the hourly rate multiplied by the number of hours the examination has taken. That is:

Examination fee = hourly rate x number of hours.

## How to calculate the hourly rate – the formula

6. Divide the amount of the minimum annual salary of a post within Group 7 of the judicial salary structure as designated by the Review Body on Senior Salaries,<sup>1</sup> by 220 to give 'x'; and then divide 'x' by 6 to give **the hourly rate**.

That is:

$$\frac{\text{Minimum annual salary}}{220} = x$$
$$\frac{x}{6} = \text{hourly rate}$$

## Single fee chargeable on making the appointment for examination

7. An examiner is also entitled to charge a single fee of twice the hourly rate (calculated in accordance with paragraph 6 above) as “the appointment fee” when the appointment for the examination is made.
8. The examiner is entitled to retain the appointment fee where the witness fails to attend on the date and time arranged.
9. Where the examiner fails to attend on the date and time arranged he may not charge a further appointment fee for arranging a subsequent appointment.

(The examiner need not send the deposition to the court until his fees are paid, unless the court directs otherwise – see rule 110(1).)

## Examiner's expenses

10. An examiner is also entitled to recover the following expenses -
  - (a) all reasonable travelling expenses;

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<sup>1</sup> The Report of the Review Body on Senior Salaries is published annually by the Stationery Office.

- (b) any other expenses reasonably incurred; and
- (c) subject to paragraph 11, any reasonable charge for the room where the examination takes place.

11. No expenses may be recovered under sub-paragraph 10(c) if the examination takes place at the examiner's usual business address.

(If the examiner's fees and expenses are not paid within a reasonable time he may report the fact to the court - see rule 110(3).)