

**Value for Money Billing Guidelines  
for  
UK lawyers & their overseas offices**

**1. Introduction**

- 1.1 Fees are normally charged by reference to time spent on a matter in accordance with agreed budgets and the guidelines set out below. We encourage, however, consideration of alternative charging methods particularly if they improve certainty or contain appropriate incentives aimed at improving efficiency or effectiveness. Beneficial creativity in this regard will be a factor to be taken into account in our performance measures (see Paragraph 11 of the VFM Guidelines).
- 1.2 Billing is a key management process both for you and us. It is critical to the budgetary management of the case and our assessment of your performance. If the case has been correctly budgeted, this should be a “mechanical” process i.e. we should be able to approve the bill easily - because there are **“No surprises”**.
- 1.3 You must ensure that:
- 1.3.1 Prior to delivery, the invoice is appropriate, represents value and accords with your agreed instructions.
- 1.3.2 You monitor your bills to ensure that they are in line with the agreed budget and any subsequent updates.
- 1.3.3 You alert the Thomas Miller Claims Executive **immediately** you suspect that the budget may be exceeded (**“No surprises”**) – *this is very important*.
- 1.3.4 Where other suppliers have been instructed by you,
- o They apply and implement these Billing Guidelines insofar as they are relevant.
  - o They know to alert you if they suspect that any budget may be exceeded (**“No surprises”**).
  - o You monitor them and contact them if you suspect that the budget may be exceeded.
- See Paragraph 3.1 below
- 1.4 Thomas Miller is introducing e-billing, using DataCert ([www.datacert.com](http://www.datacert.com)) and you will be expected to bill us using this service and the UTBMS task codes (see Appendix B).

**2. Time**

- 2.1 You may only bill for the time and expenses of approved fee-earners (see paragraph 2.2 of the VFM Guidelines). You will not be entitled to bill for any fee-earner who has not been approved and bills involving them may be rejected automatically by our e-billing system (DataCert - see below) as their names and rates usually need to be loaded into DataCert.
- 2.2 The rates that have been agreed between you and us in respect of each fee earner are the maximum to be applied. You are free to agree a lower rate for a particular piece of work. If you should for any reason wish to charge more than the agreed rate, the Thomas Miller Claims Executive must agree to this and both the Thomas Miller GDPS and your Relationship Manager must be notified.
- 2.3 The normal billing unit should be six minutes (or less). If an item runs over one day into the next, a new entry should be started for the next day.
- 2.4 Time recorded should be accurate, proportionate and recorded promptly.
- 2.5 Information and coding should be consistent both within a case and across cases.
- 2.6 The narrative should be clear and concise. It should not exceed two lines per line item unless the item represents a substantial quantity of time and requires a more detailed explanation.
- 2.7 Any explanation should not duplicate the UTBMS code description; it should provide amplification.

- 2.8 Generalisations such as “case management”, “numerous phone calls”, “considering issues arising” should be avoided.
- 2.9 Whilst it is mandatory to use the UTBMS Task Codes, it is not obligatory to use UTBMS Activity Codes.
- 2.10 On existing files if a fee-earner is promoted, unless otherwise agreed he / she will continue to be charged on such files at the old grade, but any generally agreed hourly rate increase in respect of such grade shall apply.
- 2.11 You should seek the agreement of the Thomas Miller Claims Executive before writing any lengthy opinion, report or other document, which is likely to incur substantial cost in its writing.
- 2.12 The Case Lawyer should ensure that the appropriate level of fee earner is applied to a particular activity.
- 2.13 We expect you to consider carefully the extent to which you charge for certain internal activities and strike an appropriate balance (e.g. (1) what is an appropriate amount of legal research given the skill level of the fee-earner; (2) in an internal discussion between a fee-earner and someone not involved in the case, should both fee-earners time be charged?, etc.). In particular, for whatever reason someone is substituted (including all of the reasons set out in Paragraph 2.7 of the VfM Guidelines), “reading in” will be at your expense, unless otherwise agreed by the Thomas Miller Claims Executive.
- 2.14 In the case of travel you are encouraged to discuss a fixed fee for the trip (which may or may not include the disbursements) with the Thomas Miller Claims Executive. Otherwise assuming that the main reason for travel is one of our cases (and not that of another client) and if during any full day spent travelling you work on our case for
- 2.14.1 more than seven hours, you may charge for the actual time worked;
- 2.14.2 less than seven hours, you may charge for seven hours less time spent working on any other case on behalf of another client.

### **3. Other professional suppliers**

- 3.1 If you appoint other professional suppliers, e.g. counsel or experts, a copy of these Billing Guidelines is to be given to them and you should try to ensure that they are followed, insofar as they are relevant (note that we may in due course issue separate guidelines for other types of Supplier). If the Case Lawyer feels that a supplier is not following the Guidelines satisfactorily, he / she should discuss with the Thomas Miller Claims Executive what action should be taken.
- 3.2 You should instruct any professional supplier to bill the appropriate Club direct, unless you know that this supplier is “one-off” (to Thomas Miller) and likely only to be used on the particular case (if in doubt consult the Thomas Miller Claims Executive). You should ensure that this instruction is given in such a way that it will not impact any privilege issues and make it clear that this is being done only for process reasons. The Case Lawyer should receive a copy of the supplier’s bill and should give as soon as possible his comments to the Thomas Miller Claims Executive, who will not authorise payment until he has these.

### **4. Travel**

- 4.1 *General*
- 4.1.1 You may use your own travel agent but we reserve the right to request that you use our approved travel agents.
- 4.1.2 Personal benefits derived from frequent flyer or similar schemes may be retained by you / the traveller, but must never be used to influence travel plans.
- 4.1.3 Reduced fare opportunities, including low cost carriers, advance booking, broken travel and restricted fares, must be taken where possible and reasonable, having regard to the health and safety of the traveller and the efficient achievement of the business objective of the travel.
- 4.1.4 If you wish to use a different class of travel than that set out below, you are free to do so provided that you only bill for travel in accordance with the guidelines below, by producing evidence of the lower travel cost on the date you booked your ticket.

- 4.1.5 Whenever possible, travellers should try to avoid using hotel phones. Use of hotel internet facilities, however, is encouraged unless there is a cheaper alternative easily available.
- 4.2 *Air travel*
- 4.2.1 For short haul (flights under 5 hours duration), Economy class should always be used unless this would cause hardship (e.g. night flights, travel in difficult countries).
- 4.2.2 For long haul (flights of more than 5 hours duration), Business class may be used, when appropriate to the business objectives of the travel.
- 4.2.3 Where the trip involves several sectors, the cheapest combination will apply.
- 4.2.4 Helicopter (unless a scheduled service), light aircraft, private and non-scheduled aircraft may not be used without the specific, prior, written approval of the Thomas Miller Claims Executive.
- 4.2.5 In the interests of preserving the safety and continuity of a case, consideration should be given to the number of people involved in a case, who travel on the same plane.
- 4.3 *Rail travel*
- 4.3 The class of travel should be appropriate to the nature of the journey, the quality of the train and the need to work on our case during the journey.
- 4.4 *Car Hire*
- 4.4.1 The car hire provider should be a first class professional car hire provider with a first class international reputation - in the absence of such a provider, car hire probably should not be used by the traveller.
- 4.4.2 Group B (or equivalent) should normally be used.
- 4.4.3 Insurance for Collision Damage Waiver (or equivalent) must be included in the hire agreements together with full/increased liability insurance.
- 4.5 *Hotel Accommodation*
- 4.5. Four star, single room accommodation (or equivalent) in a hotel chain of good, international reputation (or equivalent) should be used but, in every case, the traveller must take full account of considerations of:
- 4.5.1 His health, safety and security.
- 4.5.2 Convenience and access to the place where business is to be done.
- 4.5.3 The availability of effective and economical means of international communications.
- 4.6 *Expenses while travelling*
- 4.6. You may also bill for a traveller's normal expenditure arising directly from such travel, together with all reasonable and appropriate additional expenses including (but not limited to):
- 4.6.1 taxi, minicab or equivalent transport;
- 4.6.2 out of the ordinary mobile phone and other telecommunications costs;
- 4.6.3 reasonable meals and/or refreshments for the traveller;
- 4.6.4 the reasonable cost of appropriate entertainment purchased to occupy weekends and/or other free time when travelling;
- 4.6.5 the cost of reasonable gifts in return for hospitality in accordance with local custom and practice;
- 4.6.6 the cost of such injections, inoculation or other medication as may be necessary, required or recommended for this particular trip.
- 4.6.7 reasonable hotel laundry costs.

**5. Disbursements**

- 5.1 Other than as set out below no charges may be made for telecommunications, ordinary photocopying, out-of-hours typing services or DataCert fees. In any event we strongly encourage you to scan documents (in preference to photocopying) – see Paragraph 5.2.4 of the VfM Guidelines
- 5.2 A charge for photocopying for the purposes of pleadings or discovery / trial may be made provided that a budget has been agreed in advance (we reserve the right to require this to be done by our own supplier). You should also consider whether the use of an electronic discovery system (e.g.Trilantic) is appropriate and can be agreed with the other side for both discovery and presentation of documents during the trial.
- 5.3 You should try to include all expenses (especially travel) in the same bill as the time to which the expenses relate is billed. If this is not possible, then try to bill all the time in one bill and the expenses in another.
- 5.4 Exceptions to the Travel Guidelines in Paragraph 4 and to this Paragraph 5 may be agreed on a case by case basis by the Thomas Miller Claims Executive. In the case of an emergency, seeking such agreement should not delay the taking of action.

**6. VAT**

- 6.1 You should follow each Club's instructions issued from time to time. The current versions are attached to these Guidelines and see also the notes on VAT in Appendix A.

**7. Bill Submission & Payment - E-Billing**

- 7.1.1 All bills must be submitted electronically through DataCert in accordance with the LEDES 98bi standard with line items coded according to the UTBMS task codes. (See Appendix B).
- 7.1.2 Your billing system must be capable of creating and exporting bills in accordance with this standard or you will be required at your expense to rekey information into a data entry tool provided by DataCert, coding each line item in accordance with the UTBMS codes.
- 7.1.3 Further details regarding submitting invoices through DataCert are set out in Appendix A.
- 7.1.4 You are to pay DataCert's charges / subscription fees in respect of their providing services to you. These are unlikely, except in special circumstances, to exceed currently US\$2,500 per annum per firm and may be less if you are handling a small number of cases.
- 7.2.1 You may bill the appropriate Club every month on each case, unless there has been no activity on the file. Otherwise you should submit a bill at least every 3 months provided that during that period fees and disbursements do not exceed £5,000 / US\$10,000, in which case you should submit a bill at the end of the month in which they do.
- 7.2.2 If you bill for any of your activity that is more than 4 months old, the charge for such activity will be reduced by 20%. You may not submit any charge for any activity that is more than 6 months old. These restrictions will not apply if you have submitted a bill in time but for some reason the bill has been rejected by us.
- 7.2.3 Similar principles to those in Paragraph 7.2 should, where possible, be applied to suppliers who have been instructed by you. We realise that there may be exceptions to this but you should strongly press suppliers to bill in this way. If you have any problems with a supplier concerning this, you should discuss this with the Thomas Miller Claims Executive.
- 7.2.4 We expect that you will pay suppliers within 30 days of being paid by us.
- 7.3 Bills received before 8<sup>th</sup> of any month will be paid (subject to the approval of the Thomas Miller Claims Executive) on the last Wednesday of the following month.
- 7.4 All bills due for payment will be paid collectively in one payment.
- 7.5 If a bill is automatically rejected by DataCert, e.g. for not having our reference or other incorrect / missing details or maths, the submission date will be that on which the corrected bill is received.
- 7.6.1 We will seek to ensure that Thomas Miller Claims Executives accept or reject bills promptly.

7.6.2 If an invoice contains items which are disputed and needs to be resubmitted, the Thomas Miller Claims Executive will reject the electronic invoice and discuss the disputed item(s) with the Case Lawyer. Your billing manager will receive a standard e-mail to this effect.

7.6.3 Invoices rejected by the Thomas Miller Claims Executive will be dealt with as follows:

- o If the disputed items are minor, can be agreed swiftly and the corrected invoice resubmitted by a date agreed with the Thomas Miller Claims Executive, it may be possible for it to be paid within the same payment cycle.
- o If the disputed items take longer to resolve or the corrected invoice is not resubmitted by the agreed date, the invoice will be paid in accordance with the payment cycle determined by the actual submission date.

*Note: During the initial months of DataCert we will be seeking to avoid "nitpicking" although this is a risk due to the increase in transparency.*

## Appendix A - Guidelines for Invoices submitted through ShareDoc

The Guidelines are applicable to case related invoices submitted through ShareDoc for the following businesses:

- United Kingdom Mutual Steamship Association (Bermuda) Ltd
- The United Kingdom Freight Demurrage & Defence Association Ltd
- Through Transport Mutual Insurance Association Limited
- TT Club Mutual Insurance Limited

### ShareDoc Rules

DataCert will provide you with Guidelines for the correct submission of invoices. You should, however, be aware that if any of the following requirements are not met, invoices will be rejected in ShareDoc without ever reaching Thomas Miller or Thomas Miller being aware that an attempt has been made to submit them:

- Each invoice must have
  - the Vendor's name and address
  - the Client's name and address (see also Requirements in connection with VAT legislation below)
  - a valid Thomas Miller Case Reference (= Matter ID) (see below)
  - A meaningful Incident description should be added including the 'name of the case'
  - Only one matter billed in it
- The maths of each line item must be correct
- The line items must add up to the total invoice amount
- Each fee line item must have
  - a Timekeeper
  - a valid UTBMS task code
- Each expense line must have a valid UTBMS expense code

### ShareDoc support

If you encounter problems submitting invoices through ShareDoc, you should contact DataCert in the first instance. However if problems persist please contact the Thomas Miller Director of Professional Suppliers so that we can take it up with DataCert.

### Case References (=Matter IDs)

As mentioned above one of the conditions for LEDES Invoices to be accepted in ShareDoc is that they include a valid Case Reference or Matter ID. The correct format for each of the businesses is as follows:

- **P&I/Defence**  
SSSSSS/YYYY/CCCCCC for cases prior to 1990  
YYYY/CCCCCC for cases in or after 1990
- **TT Club**  
MMMMM/YYYY/CCCCCC

In addition you should include your own reference.

### Requirements in connection with VAT legislation

The invoice requirements issued previously in connection with VAT legislation are applicable to electronic invoices submitted through ShareDoc. Invoices which are incorrectly addressed or do not contain VAT numbers as required will be rejected.

The Ledes98BI fields should be completed as follows:

**Law firm ID:** your VAT number (this should be entered without any spaces)

**vendor name**

**vendor address1**

**vendor address2** (if applicable)

**vendor city**

**vendor state/province** (if applicable)

**vendor country**

**vendor ZIP/postal code**

**client tax ID:** the Club/Member's VAT number if applicable as per instructions contained in the VAT circulars and other instructions below (this should be entered without any spaces)

**client name:** as per the requirements contained in the VAT circulars and instructions below

**client address1**

**client address2** (if applicable)

**client city**

**client state/province** (if applicable)

**client country**

**client ZIP/postal code**

The relevant UK P&I Club, UK Defence Club and TT Club circulars are attached to these Guidelines covering e-mail.

*UK Defence Club Invoices*

**In addition to the above the requirement to address and send an invoice to the Member as set out in circular 94/2 remains.** The circular is attached to these Guidelines.

### **Reimbursement of third party fees**

If you are seeking reimbursement of third party fees such as Counsel's or expert's fees please include the chambers/company and name such party in the description field of the Expense Line Item.

### **Cases where only part of the total invoice is payable**

In some instances only part of an invoice is payable by the Club/business which instructed you or the invoice needs to be split between the Members involved.

The Case Handler will advise the Case Lawyer if this is the case.

Invoices submitted in respect of such cases should show all the line items the full amount. An adjustment to arrive at the share payable should be added as a separate line item at the end of the invoices under **code A901**.

In those instances where the fees/expenses need to be split between the Members involved, one invoice should be submitted per Member, each showing all the line items for the full amount with the total adjusted to reflect that Members share.

### **Invoicing for lump sum agreements**

If a lump sum has been agreed you should compile the invoice in the usual manner, i.e. showing all line item as incurred but to apply an adjustment upwards or downwards under **code A902** to arrive at the agreed lump sum figure.

## Appendix B - UTBMS Codes

### L100 Case Assessment, Development and Administration

#### L110 Fact Investigation/Development - All actions to investigate, understand the facts of matter

- Interview of Member personnel/potential witnesses
- Review of documents
- Work with an investigator
- Legal research for initial case assessment purposes
- Communication for Fact Investigation

#### L120 Analysis/Strategy - Thinking, Strategizing, and Planning for a case

- Discussions/Writings/Meetings on case strategy
- Preparation/ of Litigation Plan
- Communication on case strategy

#### L130 Experts/Consultants.

- Research-Interviewing -Working with Experts/Consultants
- Developing Expert/Consultant Reports
- Communication with Expert/Consultants

#### L140 Document/File Management.

- File organization/administration for database construction/management

#### L150 Budgeting

- Develop/Edit/Correspondence for Budget

#### L160 Settlement/Non Binding ADR- Activities directed specifically to settlement.

- Planning/Participation in Settlement Discussions
- Conferences
- Implement Settlement
- Pursuing Mediation
- Travel to/from Mediation
- Attend Mediation
- Pre-litigation Demand Letters
- Research Settlement
- Communication regarding Settlement/Mediation/ADR

### L200 Pre-Trial Pleadings and Motions - Covers all pleadings and pre-trial motions and procedures other than Discovery

#### L210 Pleadings

- Drafting/Editing Pleading
- Reviewing/Answering Complaints
- Counter-claims and third party complaints
- Motions to dismiss/strike
- Jurisdictional motions
- Research for Pleadings

#### L220 Preliminary Injunctions/Provisional Remedies

- Developing/Discussing strategy for remedies
- Preparing motions/affidavits/briefs
- Reviewing opponent's papers
- Preparing for court hearing
- Travel to and from court hearings



- Attending court hearing
- Preparing witnesses for the hearing
- Effectuating the remedy
- Research for Preliminary Injunctions/ Provisional Remedies

**L230 Court Mandated Conferences.**

- Preparing for hearing required by court order or procedural rules
- Travel to/from Court Ordered Conferences
- Attending hearing required by court order or procedural rules

**L240 Dispositive Motions**

- Develop strategy
- Legal Research for Dispositive Motions
- Motions for complete or partial summary judgment
- Prepare Affidavits
- Reviewing opponent's pleadings
- Defensive motions
- Preparing for/Attending hearing
- Travel to and from hearing

**L250 Other Written Motions/Submissions.**

- Developing all motions other than dispositive, pleadings, and discovery
- Responding to all motions other than dispositive, pleadings, and discovery
- Arguing all motions other than dispositive, pleadings, and discovery
- Research for Other Written Motions/Submissions

**L260 Class Action Certification and Notice**

- Proceedings unique to class action litigation and derivative suits such as class certification and notice.

**L300 Discovery**

**L310 Written Discovery /Interrogatories**

- Developing/Responding/Objecting to Interrogatories
- Request to admit
- Summarize Interrogatories/admissions received

**L320 Document Production**

- Developing, responding, objecting to, and negotiating document request.
- Identifying/Reviewing documents for production
- Identifying/Reviewing documents for privilege
- Prepare/Draft Request to Produce
- Prepare/Draft response for Request to Produce
- Prepare/Draft Notice of NNP (Notice of Non-Party Production)
- Prepare/Draft Subpoena/Authorizations
- Obtain non-subpoenaed documents (i.e. tax returns, work comp, disability, court files)
- Review/Summarize Subpoenaed Documents

**L330 Depositions**

- Preparing Deposition notices and subpoenas
- Communicating with opposing/other party's counsel on scheduling and logistics
- Planning and preparing to take the deposition
- Discussing deposition strategy
- Preparing witnesses
- Reviewing documents for deposition preparation

Attending depositions  
Travel to and from  
Drafting deposition summaries

**L340 Expert Discovery**

Preparing expert discovery notices  
Communicating with expert discovery on scheduling and logistics  
Discussing expert strategy  
Preparation and consultation with expert  
Reviewing Expert documents/records and/or films review  
Drafting expert summaries  
Independent Medical Examination (IME)

**L350 Discovery Motions**

Developing/Responding to/Arguing motions that arise from discovery  
Protective Order Process

**L360 Discovery On-Site Inspections**

Travel To & From Site Inspections  
Attend Site Inspection

**L400 Trial Preparation and Trial**

**L410 Fact Witnesses.**

Preparing for examination of non-expert witness  
Preparing for cross-examination on non-expert witness

**L420 Expert Witnesses.**

Preparing for examination of expert witness  
Preparing for cross examination of expert witness

**L430 Written Motions/Submissions.**

Developing written motions during prep for trial/ and trial  
Preparing for Motions in Limine  
Preparing/Reviewing Jury Instructions  
Responding to written motions during prep for trial/ and trial  
Arguing written motions during prep for trial/ and trial  
Developing/Reviewing written pre-trial/trial filings

**L440 Trial Preparation and Support.**

Preparing for trial  
Preparing Opening/Closing Arguments  
Establishing off-site support office  
Identifying documents/evidence for use at trial  
Preparing demonstrative materials and exhibits  
Deposition abstracts/indexing/summarization  
Mock Trials/Focus Groups/Jury Research  
Travel to/ from Trial Preparation

**L450 Trial and Hearing Attendance.**

Appearing at trial  
Appearing at trial related hearings  
Appearing at court-mandated conferences  
Travel to & from Trial & Hearing

Communication regarding trial progression

**L460 Post-Trial Motions/Submissions.**

Developing/Responding/Arguing post-verdict matters  
Research Post Trial Motions and Submissions  
Travel to/from

**L470 Enforcement**

Enforcing judgments  
Collecting judgments  
Filings for stay pending appeal

**L500 Appeal**

**L510 Appellate Proceedings/Motions Practice**

Research Appellate Issues  
Prepare/review motions/other filings  
Draft Response to motions/other filings  
Arguing motions/other filings  
Attend Motion Hearing  
Travel to and from Motion Hearing  
Prepare Notice of Appeal  
Designating Appellate Record  
Extraordinary Writs/Appellate Proceedings  
Review responses to Appellate Petition  
Prepare responses to Appellate Petition  
Prepare Petition Appendix

**L520 Appellate Briefs.**

Research appellate brief  
Preparing appellate brief  
Reviewing opposing party appellate brief  
Review Record

**L530 Oral Argument.**

Preparing for Oral Argument  
Arguing an appeal  
Travel to and from  
Appeals Communication with Member/Opposing counsel/co-counsel  
Prepare Appellate Record

**E100 Expenses**

- E101 Copying
- E102 Outside Printing
- E103 Word Processing
- E104 Facsimile
- E105 Telephone
- E106 On Line Research
- E107 Delivery Services/Messengers
- E108 Postage
- E109 Local Travel
- E110 Out of Town Travel
- E111 Meals
- E112 Court Fees
- E113 Subpoena Fees
- E114 Witness Fees
- E115 Deposition Transcripts
- E116 Trial Transcripts
- E117 Trial Exhibits
- E118 Litigation Support Vendors
- E119 Experts
- E120 Private Investigators
- E121 Arbitrators/Mediators
- E122 Local Counsel
- E123 Other Professionals
- E124 Other

**The following are not official UTBMS codes but are to be used by Thomas Miller suppliers for the purposes shown**

**A900 Adjustment Codes**

- A901 Adjustment applied to the total amount of the invoice to arrive at the amount payable on the file against which the invoice is submitted in instance where:
  - the Club/business only pays a share of the invoice; or
  - the invoice needs to be split between Members
- A902 Adjustment upwards or downwards to arrive at the agreed lump sum for the work undertaken