

Civil Contracting Policy Unit

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Dear Colleague

IMMIGRATION AND ASYLUM

Following further consultation with the profession on Controlled Legal Representation and Fast Track Processes, we attach the final documentation for publicly funded immigration and asylum work which will come into effect from 1 April 2004.

We enclose with this letter the following:

1. Immigration Specification
2. Notice of other consequential changes to the General Civil Contract (Solicitors)
3. New immigration forms CW2 Imm (Controlled Legal Representation) and CW3 Imm (Application for an extension)
4. New CMRF (Controlled Matter Report Form) and guidance

Immigration Specification - Section 12 of the General Civil Contract (Solicitors)

This replaces the existing Section 12 of the Contract and will apply to all work carried out in the immigration category from 1 April 2004. This will form part of the new three year contracts and if your contract has not been renewed following the bid round process, please see the further information on remainder work set out below.

There have been a number of changes to the previous draft Specification arising out of meetings with the profession and responses to consultation. A summary of the amendments is as follows:

- New provisions allow for urgent work where there is a change of supplier and the new representative has not received the costs information or documents from a previous representative.

- The rules relating to the application form and sponsors have been changed to allow a sponsor or family member to sign both the Legal Help or Controlled Legal Representation form where they have sufficient interest in the matter.
- There is also a new rule to clarify that concurrent applications by the same client will constitute one matter start.
- With regard to cost limits and extensions, a reasonable period (normally up to 30 minutes) may be claimed for completing the application for extension on form CW3 Imm.
- The Legal Help Cost Limit has been varied to allow for higher limits in cases where the client is in detention or a fast track process.
- The Maximum Disbursement Limit under Legal Help has been increased to £250.00 (and £400.00 in cases where the client is in detention or a fast track process).
- There is further flexibility under the CLR Cost Limit to take into account delays at appeal hearings, which are no fault of a representative or a client.
- In addition, a reasonable period may also be claimed for completing the application for CLR on form CW2 Imm.
- We have introduced exceptions to the fast track process at Oakington and Harmondsworth whereby representatives without a specific fast track contract may in limited circumstances provide controlled work to clients at those locations (ie where the client is an existing client or close family member of an existing client).
- With regard to the scheme at Harmondsworth, we have decided to delay implementation and we intend to invite tenders from all suppliers so that those wishing to provide controlled work may bid to do so from 1 July 2004.

Notice of consequential changes to the General Civil Contract (Solicitors)

This notice sets out the other consequential amendments to the General Civil Contract (Solicitors) following consultation on the new Immigration Specification. In brief, these include removing the devolved power to grant CLR in the immigration category and changes to the general rules on CLR and the right of review. Other changes are dealt with by cross-referencing to the Immigration Specification.

This follows the previous notice which we issued on 3 December 2003 relating to the changes from 1 March 2004.

New Immigration Forms

Please note the changes to CW2 Imm (Controlled Legal Representation) and the new form CW3 Imm (Application for an extension), to take into account the new provisions for controlled work in the immigration category. The London Regional Office intend to begin seminars for suppliers in the week commencing 23 February to provide information about how the new forms will be used and how your applications will be processed. Outside London your

local Regional Office will contact you separately to confirm arrangements for seminars.

From 1 March 2004:

- London suppliers should use CW3 Imm to apply to the LSC for an extension to the Legal Help Cost Limit or CLR. The CW3 Imm has already been issued for this purpose.

From 1 April 2004:

All suppliers should submit applications to the London Regional Office using the following forms:

- CW2 Imm to apply to the LSC for a grant of CLR
- CW3 Imm to apply to the LSC for an extension to the relevant Cost Limit or Maximum Disbursement Limit under Legal Help
- CW3 Imm to apply to the LSC for an extension to the relevant Cost Limit under CLR
- CW4 to apply to the LSC for a review of a decision to refuse or withdraw CLR

The details of the London Regional Office are:

**Legal Services Commission
London Regional Office
29/37 Red Lion Street
London WC1R 4PP
DX 170 London/Chancery Lane**

**phone: 020 7759 1591
fax : 020 7759 1592
(urgent applications only)**

Suppliers should continue to send the CMRF forms to their existing processing centre. The revised form enclosed with this letter should be used for April 2004 submissions.

Minor amendments have been made to the CW1 (Legal Help) and CW4 (Application for a review) and these will be included in the Update to the Forms Masterpack, which will be sent to suppliers and available on the LSC website in March. The CW2 Imm, CW3 Imm and new CMRF will also be available in pdf format on the LSC website from early March.

Remainder Work

For suppliers who will not have their contracts renewed from 1 April 2004, the following conditions will apply to any remainder work allowed from that date:

- You should not open any new cases or matters under Legal Help or CLR
- If your client has signed a Legal Help form before 1 April 2004 you may continue to advise that client under the terms of the new Immigration

Specification (new section 12 of the General Civil Contract from 1 April 2004)

- If you have granted CLR for a client before 1 April 2004 you may continue to advise that client under the terms of the new Immigration Specification (new section 12 of the General Civil Contract from 1 April 2004), and all work will remain subject to the pre-existing CLR Upper Financial Limit of £1500.00 (or your firm's CLR limit if different)
- Where you are advising a client under Legal Help you cannot grant or apply for a grant of CLR from 1 April 2004 and you should refer that client to another supplier as soon as the right to appeal arises or earlier if practicable (you may claim up to 30 minutes to arrange the referral)
- The transitional arrangements for clients who signed the Legal Help form or where CLR was granted before 1 April 2004 will apply (see below)

Devolved Powers and further consultation

The devolved power to grant CLR is removed from 1 April 2004 except where we notify individual suppliers otherwise in writing.

At present, we can confirm that all suppliers with the existing devolved power to grant emergency certificates in the immigration category will retain the devolved power to grant CLR. There will be no need for these suppliers to submit an application to the LSC. These suppliers will also retain higher cost limits for work under Legal Help. The London Regional Office will contact those firms separately to confirm the devolved power and/or higher cost limits.

We intend to consult with representative bodies on the criteria to extend the devolved power to grant CLR and/or to grant higher cost limits to other suppliers. We will aim to conduct a review of our data in May 2004 after which suppliers should have the opportunity to apply for devolved powers with reference to the agreed criteria.

Timetable for Changes

These limits will apply unless otherwise notified by the London Regional Office.

1. Legal Help Costs Limits

London suppliers

For new cases started from 1 to 31 March 2004:

- £401.25 (asylum) and £286.75 (non-asylum) Legal Help Cost Limit

For new cases started from 1 to 30 April 2004:

- £401.25 (asylum) and £286.75 (non-asylum) Legal Help Cost Limit

For new cases started from 1 May 2004:

- £286.75 (asylum) and £172.05 (non-asylum) Legal Help Cost Limit

Outside London suppliers

For new cases started from 1 to 30 April 2004:

- £367.85 (asylum) and £262.75 (non-asylum) Legal Help Cost Limit

For new cases started from 1 May 2004:

- £262.75 (asylum) and £157.65 (non-asylum) Legal Help Cost Limit

For all suppliers, there will be special arrangements for Fast Track and Detention cases whereby for new cases started from 1 April 2004 the Legal Help Cost Limit will be extended to £700.00 (asylum) and £500.00 (non-asylum) and the Legal Help Maximum Disbursement Limit will be increased to £400.00.

2. Legal Help Maximum Disbursement Limit

- £250 for disbursements incurred on or after 1 April 2004.

3. Controlled Legal Representation Costs Limits

For cases where CLR is granted on or after 1 April 2004:

- £1200.00 CLR Upper Cost Limit Adjudicator (including disbursements)
- £150.00 CLR Applications for permission to appeal to the IAT (including disbursements)
- £750.00 CLR Cost of appeal to the IAT (including disbursements)

Transitional Arrangements

These limits will apply unless otherwise notified by the London Regional Office.

1. Legal Help

The transitional arrangements are set out in Rule 12.7 of the Immigration Specification.

London Suppliers

For cases opened prior to 1 March 2004 you will be allowed to incur the following additional Legal Help costs before applying for an extension:

- £401.25 (asylum) and £286.75 (non-asylum) profit costs
- £250 of disbursements incurred on or after 1 April 2004

However you should apply for an extension if you reach your previous upper financial limit before incurring these costs.

Outside London Suppliers

For cases opened prior to 1 April 2004 you will be allowed to incur the following additional Legal Help costs before applying for an extension:

- £367.85 (asylum) and £262.75 (non-asylum) profit costs
- £250.00 disbursements incurred on or after 1 April 2004

However you should apply for an extension if you reach your previous upper financial limit before incurring these costs.

2. Controlled Legal Representation

For cases where you granted Controlled Legal Representation prior to 1 April 2004 you should apply for an extension at the point that you reach your previous upper financial limit.

3. Examples

The following examples relate to an asylum matters in London:

The Legal Help form was signed on 1 January 2004 and £600 costs have been incurred. After 1 March 2004, the supplier can incur further costs up to £401.25, therefore a total of £1001.25. The supplier would then need to apply to the LSC for an extension.

CLR was granted on 1 January 2004 and £1300 costs have been incurred. After 1 April 2004, the supplier can incur further costs up to £200, therefore a total of £1500. The supplier would then need to apply to the LSC for an extension.

The Legal Help form was signed on 1 January 2003 and £2000 costs have been incurred. After 1 March 2004, the supplier cannot incur any further costs and should apply for an extension before carrying out any further work.

CLR was granted on 1 January 2004 and £1500 costs have been incurred. After 1 April 2004, the supplier cannot incur any further costs and should apply for an extension before carrying out any further work.

We will be issuing further guidance relating to the new provisions and a list of frequently asked questions will be posted on the LSC website shortly.

Yours faithfully

A handwritten signature in black ink, appearing to read 'P. Reeve', written in a cursive style.

Patrick Reeve
Head of Civil Contracting Policy