

# **National Courts Team Hardship Review Guidance**

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## 1: BACKGROUND

### 1.1 What Is The Hardship Review?

From October 2006 all Applicants for legal aid in magistrates' court criminal cases will be subject to a means test to determine their financial eligibility.

The court in which the case will be heard will carry out the means test.

Guidance on the means test can be downloaded from

[www.legalservices.gov.uk](http://www.legalservices.gov.uk)

Applicants not granted legal aid by the court because they are ineligible under the means test can apply to the Legal Services Commission (LSC) to have their financial eligibility reviewed. The financial eligibility review is known as the **Hardship Review**.

### 1.2 Who Can Apply?

In order to make an application for a Hardship Review the Applicant must have previously applied to the court for legal aid in a magistrates' court criminal case and been refused on the grounds of financial eligibility.

### 1.3 How To Apply

All applications for a Hardship Review must be submitted on form CDS16.

There are two stages at which an Applicant can submit an application:

1. The Applicant can apply for a Hardship Review after the initial application for legal aid has been refused by the court on the grounds that he is financially ineligible under the means test. Applications should be sent directly to the LSC.

2. If an Applicant believes he will be ineligible for legal aid under the means test when the initial application to the court is made, he can submit an application for a Hardship Review at the same time.

The Applicant should submit form CDS16 and accompanying evidence to the court together with the application for legal aid. If the court does not grant the Applicant legal aid because he is not financially eligible the Hardship Review application will be forwarded to the LSC by the court.

## 1.4 Liverpool or Nottingham?

<b>LSC Region</b>	<b>Counties, Unitary Authorities or Metropolitan Borough Councils covered</b>	<b>Hardship Applications sent to:</b>
London	All London Boroughs	Liverpool
South East	Kent Surrey Sussex (East & West)	Nottingham
Southern	Berkshire Buckinghamshire Hampshire Isle of Wight Oxfordshire	Nottingham
South West	Cornwall Devon Dorset Gloucestershire Somerset Wiltshire	Liverpool
Wales	All Welsh Counties	Liverpool
West Midlands	Herefordshire Shropshire Staffordshire Warwickshire West Midlands Worcestershire	Nottingham
North West	Cheshire Cumbria Lancashire	Liverpool
North East	Durham Newcastle Upon Tyne Northumberland	Liverpool
Yorkshire and Humberside	Yorkshire (East Ridings, North, South & West)	Liverpool
East Midlands	Derbyshire Leicestershire Lincolnshire Northamptonshire Nottinghamshire Rutland	Nottingham
Eastern	Bedfordshire Cambridgeshire Essex Hertfordshire Norfolk Suffolk	Nottingham
Merseyside	Merseyside	Liverpool

## 2: ACCEPTING THE APPLICATION

- 2.1 The National Courts Team (NCT) will carry out the Hardship Review on the basis of information provided by the Applicant and his instructed solicitor. All requests for Hardship Reviews must be submitted on **Form CDS16**.
- 2.2 The form must be completed in full and accompanied by supporting evidence where required.
- 2.3 Where the form is incomplete, unsigned or otherwise required information is not provided, the application should be rejected back to the Applicant's solicitor. Sufficient information must be held on file to allow the assessment to be checked / audited if necessary. The form must be signed by all relevant parties as this is a "statement of truth" and we may need to rely on it in the event of fraud.
- 2.4 Before beginning any assessment the form should be checked to ensure:

	Yes	No
<b>Is the form legible?</b>		
<b>Is it the correct form?</b>		
<b>Is the form signed by the Applicant (and Partner)?</b>		
<b>Has the appropriate evidence been provided by the Applicant?</b>		
<b>Is the form dated by the Applicant (and Partner)?</b>		
<b>Solicitor's details including estimate of costs and attached explanation?</b>		
<b>Is the form signed by the solicitor?</b>		
<b>Is the form dated by the solicitor?</b>		

- 2.5 If the answer to any of the above questions is "No" the form should be rejected and returned to the Applicant's solicitor.

## 3: ASSESSING THE APPLICATION

### 3.1 Each application should be assessed on its own merits

Each Hardship Application should be assessed on its own merits and consideration given to whether the Applicant has sufficient means to pay the solicitor's costs. The Applicant's financial circumstances should be taken into account, along with the solicitor's costs estimate and any other information provided on the form.

### 3.2 Computation Period

The computation period used in the Hardship Review will be the same as that applied in the means test i.e. 12 months before the date of the application for legal aid.

This means that you should only consider items of expenditure that have occurred within the 12-month period before the application for legal aid.

If the Applicant has shown that he has been denied access to a source of income you should only allow such amount as has been denied him during the 12-month period before the application for legal aid.

### 3.3 Evidence

The Hardship Review will work on the general principle that the Applicant should provide sufficient evidence to substantiate the claims made in the Hardship Application Form i.e. if the applicant claims he has to service a debt he should provide credible and independently verifiable documentary evidence in the form of bank statements / loan agreement to support the claim.

### 3.4 Evidence Checklist

Form CDS16	Obligatory / Optional	Who should complete the section?	Evidence Required
<b>Part A</b>			
Applicant and Solicitor Details	Obligatory	Applicant and Solicitor	None
<b>Part B</b>			
Section 1: Other Sources of Funding	Obligatory	Applicant	None
Section 2: Solicitor's Costs	Obligatory	Solicitor	Attached statement from your solicitor justifying estimate of hours, disbursements and Fee Earner Grade.
Section 3: Denied Access to Income	Optional	Applicant	Written confirmation that you have been denied access to a source of income.  The evidence should state the amount of income you have been denied in the 12 months before the application for legal aid.
Section 4: Extra Expenditure	Optional	Applicant	Written confirmation of the expenditure including, where applicable, the repayment terms of loans; and  Evidence that payments have been made – in the form of copies of bank statements or other independently verifiable evidence.
Section 5: Additional Information	Optional	Applicant and / or Solicitor	For all additional information you must supply written, independently verifiable evidence.
<b>Part C</b>			
Declaration	Obligatory	Applicant and Solicitor	None

## 4: CARRYING OUT THE HARDSHIP REVIEW

See “**Means Assessment Administration Tool (MAAT) Training System Guide**” for further details

**4.1** After the application has been accepted you will need to access the applicant’s means test information on the online **Means Assessment Administration Tool (MAAT)**.

### **4.2 Route 1: Application forwarded to NCT by court**

Where the application is sent to the NCT from the court you should access the Applicant’s details by entering the **Case number and / or Rep Order number**, which can be found on the CDS16 application form, into MAAT.

### **4.3 Route 2: Application sent to NCT by Applicant**

Where the application is sent to the NCT directly from the Applicant you should access the details by entering the **Applicant’s surname and date of birth**, which can be found on the CDS16 application form, into MAAT.

### **4.4 Before selecting the Hardship Review tab check:**

Has a Full Means Assessment been carried out? Yes / No

- If “Yes”, select Hardship Review tab.
- If “No”, conduct Full Means Assessment. See Appendix A for details on how to conduct the assessment.

### **4.5 SECTION 1. OTHER SOURCES OF FUNDING**

- The Applicant is required to state the amount of cash savings that he (and his partner if means are aggregated) has available to fund the costs of his defence in bank, building society and Post Office accounts.
- If any amount of savings is already committed to meet an existing liability that amount should not be declared by the Applicant.
- Otherwise, the Applicant is not required to provide any evidence to support the amount declared.
- Enter the figure(s) declared into the ‘Amount’ field under ‘Other Sources of Funding’

### **4.6 SECTION 2. SOLICITORS’ COSTS**

- The Regulations require the instructed solicitor to provide an estimate of the costs of the case.
- The estimate on the Form must include:
  - The Grade of Fee Earner that will be conducting the work\*
  - The Applicable Hourly Rate\*
  - The estimated number of hours that will be worked
  - A figure for Total Costs (hourly rate x number of hours)
  - A figure for VAT on Total Costs
  - An estimated figure for Disbursements (including details)
  - A figure for VAT on Disbursements

\*See Appendix B for guidance on Fee Earner Grades and applicable Hourly Rates

- In addition, the Solicitor must attach a written statement explaining why the case requires the estimated hours, disbursements and Fee Earner Grade.
- Insert the stated hourly rate into the field marked “Hourly Rate”
- Insert the estimated number of hours into the field marked “No of Hours”
- Insert the estimated cost of Disbursements into the field marked “Disbursements”
- Add the figures for VAT on Costs and Disbursements and insert into the field marked “VAT”

#### **4.7 SECTION 3. DENIED ACCESS TO INCOME**

- The Applicant may have been denied access to a source of income that was declared in the original application for legal aid (Form CDS15)
- The Applicant will be required to give details of any sources of income that he has been denied access to and state:
  - The value of the denied income and how often (weekly / monthly / annually) they would have been received.
  - If the payments have been made for less than 12 months you should calculate the total amount paid and select “annually” as the frequency.

- The date from which he was denied the income
- The Applicant will be required to provide evidence to support the claim that a source of income has been denied him.

#### **4.8 SECTION 4. EXTRA EXPENDITURE**

The Full Means Test takes into account the actual cost of a number of outgoings (e.g. income tax, National Insurance, Housing Costs) and an equivalised annual living allowance when determining the Applicant's disposable income.

The Hardship Review provides for situations where the Applicant has outgoings that are not taken into account under the Full Means Test.

Outstanding debts are a factor that may have an impact on the Applicant's ability to pay for legal assistance. The Hardship Review has the discretion to discount debt repayments and other outgoings from the assessment of the Applicant's disposable income.

The Hardship Review operates on the presumption that the Applicant should take measures to extend or postpone those payments. However, the nature of the repayment will be taken into account.

Therefore, repayments and outgoings will generally be allowable, and deducted from the assessment of disposable income, if they would be viewed as necessary to pay for essential living costs.

#### **4.9 GENERALLY ALLOWABLE OUTGOINGS**

- Arrears for rent or mortgage payments, utilities (gas / water / electricity), and Council Tax;
- Debt repayments that are as a result of expenditure required to make the Applicant's home habitable;
- Any loan necessarily secured on the applicant's home that pre-dates the case in question;
- Payments made under the terms of a court order or judgement;
- Special expenses incurred by sick or disabled people e.g. special diet, medical items or travel expenses to hospital for treatment that have been occasioned by the sickness or disability of the Applicant, his partner or his dependent children.
- Loan repayments for essential household items such as refrigerators, cookers, washing machines etc. where the loan is secured on the item.

The Applicant will be required to state the nature of the outgoing, the amount of money paid, and the frequency of the payments e.g. weekly, monthly, annually. If the payments have been made for less than 12 months you should calculate the total amount paid and select “annually” as the frequency.

Where the outgoing is of a sort generally allowed you should enter the details of expenditure, amount and frequency onto the MAAT system.

#### **4.10 SECTION 5: ADDITIONAL INFORMATION**

This section of the form allows the Applicant to state any further information that may affect his ability to pay for the cost of legal assistance.

The information provided by the Applicant in this section may be either:

- a) Additional information of a type already provided but which could not be entered in the relevant section of the form due to space constraints e.g. the form only provides space for 9 items of Extra Expenditure. If the Applicant wishes for 10 items to be taken into account then details of the 10<sup>th</sup> item should be entered in this space.

Or

- b) Additional information of a type that is not provided for in the other sections of the form.

## **5: THE MAAT CALCULATION**

- 1.1** MAAT will automatically deduct allowable Expenditure and Denied Income from the Applicant’s disposable income as assessed under the Means Test.
- 5.2** You must then manually add any savings declared from the “Other Sources of Funding” section and record the new figure (which can be described as Disposable Resources) in the “Notes “ section.
- 5.3** Finally, you should compare the Disposable Resources figure to the stated amount for Solicitor’s Costs.
- 5.4** If the Applicant has a level of Disposable Resources greater than the Solicitor’s Costs the Hardship Review has been failed and the Applicant remains ineligible for legal aid.
- 5.5** If the Applicant has a level of Disposable Resources less than the Solicitor’s Costs the Hardship Review has been passed and the Applicant will be eligible for legal aid.
- 5.6** You should record the decision in the “Notes” section and select the appropriate decision from the drop-down menu.

## 5.7 Worked Example

Full Means Test Disposable Income = £8,000

### **MAAT will automatically deduct**

Denied Access to Income = £0

Allowable Extra Expenditure = £5,000

**Disposable Income after Hardship Deductions = £3,000**

### **Manually add in Notes Section**

Other Sources of Funding = £2,000

**Disposable Resources to meet Solicitor's Costs = £5,000**

### **Manually add in Notes Section**

Solicitors Costs = £2,000

The Applicant has a level of Disposable Resources greater than the Solicitor's Costs.

The Hardship Review has been failed and the Applicant remains ineligible for legal aid.

## 6: HIGH COURT REFERRAL

- 6.1 Regulation 14(5) provides that the NCT when reviewing the application must “uphold the decision or grant the individual a representation order”. In practice, the NCT will direct the representation authority to grant the individual a representation order.
- 6.2 The NCT’s decision is final and any challenge to it should ordinarily be by way of an application for judicial review. Accordingly, if the NCT upholds the decision of the representation authority (i.e. it considers that the individual **does** have sufficient means to pay for the cost of legal assistance), the individual should be told clearly in the decision letter that the decision is final and any challenge to it must be by way of an application for judicial review. The letter must explain that a judicial review pre-action protocol letter should be sent to the Corporate Legal Team, clearly quoting the individual’s case number and setting out his challenge to the decision (see Appendix D).
- 6.3 If the individual wishes to challenge the NCT’s decision by way of judicial review, he should send his pre-action letter to the Corporate Legal Team, which on receipt, will immediately request the individual’s application from the NCT.
- 6.4 The Corporate Legal Team will review the NCT’s decision. If the Corporate Legal Team considers the decision was made correctly and in accordance with the regulations and guidance, the individual will be told in writing that their proposed application for judicial review will be resisted. However, if the Corporate Legal Team considers the decision is susceptible to challenge by judicial review, it will try to avoid litigation by referring the application for reconsideration by a senior member of the other NCT office. (i.e., if the original decision was made by the Liverpool NCT office, then it would be referred for reconsideration by the Nottingham NCT office, and vice versa).
- 6.5 Regulation 14(6) provides the LSC with a discretionary power to refer a question to the Administrative Court on a question of law arising out of the regulations. We anticipate that such referrals will be rare, and used only in exceptional circumstances. The process of referral to the Administrative Court is governed by an amendment to the Practice Direction to Part 54 of the Civil Procedure Rules. (Appendix C). The application fee for an application is £400, and the question is dealt with in a summary way on the papers, unless the court orders otherwise. The Act provides that no avenue of appeal to a decision made by the court under this power, and this is reflected in the Practice Direction.
- 6.6 Conceivably, the Commission might wish to refer a question to the Administrative Court on a point of principle which has occurred in a number of different applications, and which the Commission anticipates

will recur commonly. The decision on whether to make a referral to the Administrative Court will be taken by the Corporate Legal Team, which will first consider whether the challenge could better be resolved by an application for judicial review before it considers making referral to the Administrative Court.

- 6.7** A challenge to the operation of the regulations or their effect on an individual's case, or a claim that the regulations breach an individual's human rights would ordinarily be better dealt with by way of an application for judicial review, where an individual may apply by the urgent procedure if necessary. A judgment of the Administrative Court on a common point of challenge would, in any event, set a precedent and provide guidance for future challenges on that point.

## Appendix A

### THE FULL MEANS TEST

#### Disposable Income: £3156 Threshold

Where the Gross equivalised income of an applicant falls between the initial filter and lower threshold the full means test will be applied to establish the applicant's disposable income. Disposable Income will be assessed using the applicant's actual income (not the equivalised figure) after making deductions for:

- Any income tax paid or payable in respect of the period of calculation;
- Any national insurance contributions payable for the period of calculation;
- Housing costs;
- Child care fees;
- Maintenance paid to a former partner; and
- An annual living allowance adjusted according to the individual circumstances of the applicant.

These are the only outgoings that are allowed.

The figure assessed will be measured against a disposable income threshold of £3156. If the applicant's income exceeds this figure they will be expected to pay for their own defence in the Magistrates' Courts.

Detailed guidance is provided on each of these allowances further on in this guidance.

#### Tax and National Insurance

The following sums should be deducted from total income when calculating the disposable income for the computation period:

- (a) Any income tax paid on that income.
- (b) Any National Insurance contributions paid or payable on that income under Part I of the Social Security (Contributions) Act 1992.

#### Housing Costs

In calculating disposable income an allowance can be made in respect of either:

- (a) The mortgage or rent payable for the period of calculation in respect of the applicant's main dwelling; or
- (b) The cost of the applicant's living accommodation.

An allowance will also be given for any Council Tax paid or payable in respect of the period of calculation

### **Mortgage / Rent**

The amount allowed for mortgage or rental payments should be net of housing benefit. The rent or mortgage repayments can be allowed in full, however where housing costs declared are in excess of £500 per month (£6000 per annum) the applicant is required to provide evidence of the payment amount.

The amount to be allowed in the assessment is the rent or mortgage payable during the computation period. In practical terms it will not be easy to identify separately arrears of mortgage payments, as the applicant will generally declare these as a single revised monthly mortgage payment. If the applicant has already come to an arrangement to pay off arrears by increasing their weekly / monthly rent or mortgage payment, then, provided those increased payments are actually being paid by the applicant, that increased rent or mortgage payment can be treated as the rent or mortgage payable in the assessment. This is different from a situation whereby an applicant has commenced paying off arrears in order to reduce their disposable income with a view to qualifying for funding. Such a situation would be regarded as intentional deprivation of income and only the normal monthly rent or mortgage payments should be allowed in the assessment in such circumstances. Mortgage repayments include the monthly premiums of any linked life insurance/endowment policies, PEPs, or other instruments which will be used to repay the capital sum borrowed.

No allowance is given for water rates, insurance premiums and other associated housing costs, these are not allowable deductions in the assessment. If there is a clearly identifiable amount relating to water rates included in the rent payable by the applicant then these should not be included as rent. However it is not necessary for the Representation Authority to routinely seek clarification as to whether or not the rent declared by the applicant includes a sum for water rates.

### **Accommodation costs**

Where an applicant indicates they are paying board and lodgings then only the amount in respect of accommodation can be allowed, therefore the Representation authority will deduct from the total board and lodgings figure the amount declared on form CDS14 which is for food. In those cases where informal arrangements exist, for example lodging with a close family member, and the amount in respect of food cannot be specified by the applicant then it should be assumed that half of the declared board and lodging element is for accommodation, the remainder is assumed to be for food and other incidentals not covered by the regulations.

Where the applicant states expenditure on housing costs which is more than £500 per month (or annual equivalent) they are requested to provide supporting evidence of the payment advised on the form. A further risk factor arises where the housing cost is advised to constitute more than one third of the applicant's gross income.

### **Maintenance in payment**

In calculating disposable income an allowance can be made for genuine maintenance payments made by the applicant and / or his current partner to an estranged / former spouse or civil partner, a child or relative, who is not in any such case a member of the household of the applicant. An allowance can be made whether the payments are being made under a court order, CSA ruling or voluntary agreement. Only payments actually made can be taken into account. This allowance should be the expenditure incurred during the computation period. There are no set limits to the amount that can be allowed under this heading for genuine payments. Maintenance payments could include simply paying an ex-partner's household bills or mortgage.

### **Child Care Costs**

An allowance can be made for actual childminding expenses (paid to a registered care provider) incurred by the applicant during the computation period. Unless there are exceptional circumstances i.e. disability of the child, it would only be correct to make such a deduction in respect of a dependant child aged 15 or under.

“child care costs’ means the costs of care which is provided by one or more of the following care providers –

- (a) a school on school premises, out of school hours,
  - (b) a local authority, out of school hours –
    - (i) for children who are not disabled, in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their 15th birthday;
    - (ii) for children who are disabled, in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their 16th birthday;
  - (c) a child care provider approved by an organisation accredited by the Secretary of State under the scheme established by the Tax Credit (New Category of Care Provider) Regulations 1999;
  - (d) persons registered under Part XA of the Children Act 1989;
  - (e) persons referred to in paragraph 1 or 2 of Schedule 9A to the Children Act, in schools or establishments referred to in those paragraphs;
  - (f) persons prescribed in regulations made pursuant to section 12(4) of the Tax Credit Act 2002;
- other than costs paid in respect of the child's compulsory education or by a claimant to a partner (or vice versa) in respect of any child for whom either or any of them is responsible in accordance with regulation 14 of the Housing

Benefit (General) Regulations 1987, or in respect of care provided by a relative of the child wholly or mainly in the child's home;

Where the applicant has declared expenditure on child care which is more than £500 per month he / she is requested on form CDS14 to provide supporting evidence (e.g. copy of bank statement, copy of agreement/contract with childcare provider) to support the figures stated.

### **Cost of Living Allowance**

A standard amount representing cost of living expenses in respect of the period of calculation, is deducted. The amount is £5304 for a single person.

Where the individual has a partner or has children living in his household, an amount calculated in accordance with the Equivalence scale.

N.B. It is the age of the child at the date of application i.e. at the end of the period of calculation which determines which rate is appropriate.

This allowance takes into account food, energy bills and other basic living allowances.

## Appendix B

### **COSTS QUOTED BY APPLICANT'S SOLICITOR**

Based on the means test threshold level for disposable income it is proposed that the Hardship Review will operate under the presumption that an unusually expensive case will be one that is estimated to cost in excess of £2,000 (exclusive of VAT).

The applicant's solicitor is required to submit an estimate of costs based on the Department for Constitutional Affairs' "Guideline Figures for the summary assessment of costs".

All estimates must be in the form of Grade of Fee Earner x Estimated Hours plus the estimated cost of any disbursements (plus VAT where applicable). Details of offence type and initial plea should also be provided.

The applicable rate is that for the area in which the court that will hear the case is located.

#### **Payment Terms**

The Hardship Review will operate under the presumption that the payment terms offered by the applicant's solicitor will not usually be a factor in determining financial eligibility.

However, the applicant may request that the payment terms be taken into account where the costs of the case are estimated as being unusually expensive or where the applicant has unusually high outgoings

#### **"Guideline Figures For The Summary Assessment of Costs"**

##### **Grades of Fee Earner**

In order to establish the correct hourly rate to be applied to any claim it is necessary to establish the grade of fee earner that will actually and reasonably carry out the work concerned. The categories of fee earner detailed below are not fixed but will be applied unless circumstances dictate otherwise.

The grades of fee earner have been agreed between representatives of the Supreme Court Costs Office, the Association of District Judges and the Law Society. The categories are as follows:

Grade A: Solicitors with over eight years post qualification experience including at least eight years litigation experience. Grade A rates are normally reasonably incurred in indictable proceedings and in serious either way cases, summary cases where the consequences may be grave for the client, in cases involving

potentially difficult or dangerous clients, or in cases involving novel or difficult points of law

Grade B: Solicitors and legal executives with over four years post qualification experience including at least four years litigation experience.

Grade C: Other solicitors and legal executives and fee earners of equivalent experience.

Grade D Trainee solicitors, paralegals and other fee earners

<b>Band One Grade</b>				
<b>Guideline Rates</b>	<b>184</b>	<b>163</b>	<b>137</b>	<b>100</b>
Aldershot, Farnham, Bournemouth (including Poole)				
Birmingham Inner				
Bristol				
Cambridge City, Harlow				
Canterbury, Maidstone, Medway & Tunbridge Wells				
Cardiff (Inner)				
Chelmsford South, Essex & East Suffolk				
Fareham, Winchester				
Hampshire, Dorset, Wiltshire, Isle of Wight				
Kingston, Guildford, Reigate, Epsom				
Leeds Inner (within 2 km radius of the City Art Gallery)				
Lewes				
Liverpool, Birkenhead				
Manchester Central				
Newcastle – City Centre (within 2 km radius of St Nicholas Cathedral)				
Norwich City				
Nottingham City				
Oxford, Thames Valley				
Southampton, Portsmouth				
Swindon, Basingstoke				
Watford				

<b>Band Two Grade</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>
<b>Guideline Rates</b>	<b>173</b>	<b>152</b>	<b>126</b>	<b>95</b>
Bath, Cheltenham and Gloucester, Taunton, Yeovil				
Bury				
Chelmsford North, Cambridge County, Peterborough, Bury St E, Norfolk, Lowestoft				
Chester & North Wales				
Coventry, Rugby, Nuneaton, Stratford and Warwick				
Exeter, Plymouth				
Hull (City)				
Leeds Outer, Wakefield & Pontefract				
Leigh				
Lincoln				
Luton, Bedford, St Albans, Hitchin, Hertford				
Manchester Outer, Oldham, Bolton, Tameside				
Newcastle (other than City Centre)				
Nottingham & Derbyshire				
Sheffield, Doncaster and South Yorkshire				
Southport				
St Helens				
Stockport, Altrincham, Salford				
Swansea, Newport, Cardiff (Outer)				
Wigan				
Wolverhampton, Walsall, Dudley & Stourbridge				
York, Harrogate				

<b>Band Three Grade</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>
<b>Guideline Rates</b>	<b>158</b>	<b>142</b>	<b>121</b>	<b>90</b>
Birmingham (Outer)				
Bradford (Dewsbury, Halifax, Huddersfield, Keighley & Skipton)				
Cumbria				
Devon, Cornwall				
Grimsby, Skegness				
Hull Outer				
Kidderminster				
Northampton & Leicester				
Preston, Lancaster, Blackpool, Chorley, Accrington, Burnley, Blackburn, Rawenstall & Nelson				
Scarborough & Ripon				
Stafford, Stoke, Tamworth				
Teeside				
Worcester, Hereford, Evesham and Redditch				
Shrewsbury, Telford, Ludlow, Oswestry				
South & West Wales				

<b>London Band Grades</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>
City of London: EC1, EC2, EC3, EC4	359	259	198	122
Central London: W1, WC1, WC2, SW1	276	210	171	110
Outer London: All other London post codes: W, NW, N, E, SE, SW and Bromley, Croydon, Dartford, Gravesend and Uxbridge	232	198	144	105

## Appendix C

### AMENDMENT TO THE PRACTICE DIRECTION OF CPR PART 54

Reference of question by Legal Services Commission

22A

(1) This paragraph applies where the Legal Services Commission ('the Commission') refers to the High Court a question that arises on a review of an individual's financial eligibility for a representation order in criminal proceedings under the Criminal Defence Service (Financial Eligibility) Regulations 2006.

(2) Part 52 does not apply to reviews under this paragraph.

(3) The Commission must

(a) File at the court -

(i) The individual's applications for a representation order and for a review, and any supporting documents,

(ii) A copy of the question on which the court's decision is sought, and

(iii) A statement of the Commission's observations on the question, and

(b) Serve a copy of the question and the statement on the individual

(4) The individual may file representations on the question at the court within 7 days after service on him of the copy of the question and the statement.

(5) The question will be decided without a hearing unless the court otherwise directs.

## Appendix D

### LETTER TO APPLICANT WHEN REPRESENTATION AUTHORITY'S DECISION IS UPHELD

Dear [Applicant's name]

#### **Your application for a review of the decision not to grant you a representation order in your magistrates' court case**

I have reviewed your application and have decided that on the information you have provided [in which you have set out particulars of your income and expenditure, [and included an estimate of your solicitor's likely costs]] that you do have sufficient means to pay your solicitor's costs. Consequently, I am upholding the decision of the court that your means are such that you are not eligible for a representation order.

This decision is final, and any challenge to it should be by making an application for judicial review. You should seek legal advice on how to make an application for judicial review. If you intend to challenge this decision, you should send a judicial review pre-action letter to the Legal Director, Corporate Legal Team, Legal Services Commission, 85 Gray's Inn Road, London WC1X 8TX, giving your case number and setting out your grounds for challenging this decision.

Yours sincerely

