

# The Unified Contract

## Review of responses to the consultation on the Immigration Category Specific Specification

Corporate Legal Team  
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## **Introduction**

This document is the post-consultation report on the draft Unified Contract Immigration Category Specific Specification issued by the Legal Services Commission (“the Commission”) on 1 March 2007.

It provides:

- A background to the report; and
- A summary of the responses to the draft contract clauses.

Further copies of this report are available from the Legal Services Commission website ([www.legalservices.gov.uk](http://www.legalservices.gov.uk)).

This report should be read in conjunction with the Unified Contract Standard Terms, draft version of the Specification and draft versions of the Immigration Category Specific Specification, which can be found at:

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

## **Overview of the Unified Contract**

1. The Unified Contract's Standard Terms have prepared the way for the Reform programme<sup>1</sup> and addressed issues arising from the operation of the General Contracts.
2. The Unified Contract replaced both General Civil Contracts (Solicitors and NFP) and both Mediation Contracts (For Profit and Not for Profit) from 1 April 2007.
3. The key structural difference between the General Contracts and the Unified Contract is that each legal aid Supplier will have one Unified Contract, instead of a contract per office. Each Unified Contract will contain a separate Office Schedule for each of the Supplier's offices, under which work will be allocated in accordance with the prescribed Specification.
4. From 1 April 2007 until 30 September 2007, the Specifications contained in the General Civil Contracts will continue, subject to amendments contained in the Contract for Signature and any subsequent notices.
5. The new Unified Contract Civil Specification (save for the Mental Health Section) will come into force from 1 October 2007 and will cover all civil Controlled and Licensed Work regardless of whether an organisation is a Solicitor or NfP.

## **Key Documents**

The documents which comprise the Unified Contract have now been published and are as follows:

- Contract for Signature and Annexes;
- Office Schedules
- Standard Terms and Payment Annex; and;
- Specification as prescribed<sup>2</sup>

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<sup>1</sup> See document 'Legal Aid Reform: The Way Ahead' for further information

<sup>2</sup> E.g. Civil or Mediation

## **Background to the Consultation**

6. In our consultation paper “Legal Aid: a Sustainable Future” (published in July 2006) we put forward a number of proposals concerning legal aid contracts from 1 April 2007. In that paper, we said that we wished to introduce a Unified Contract on 1 April 2007, which would cover civil legal aid from that date (as the General Civil Contracts would expire on 31 March 2007) <sup>3</sup>.
7. In November 2006, the joint Ministry of Justice (formerly the Department for Constitutional Affairs) and LSC paper ‘Legal Aid Reform: the Way Ahead’ CM6993 explained that, although the Unified Contract would come into force on 1 April 2007, the Contract Specification would remain largely unchanged (i.e. it would remain largely the same as the General Civil Contract Specification), until revised fee schemes came into force in October 2007 and that there would be further consultation on proposed changes to the Specification in 2007 with a view to implementation in October 2007.
8. The Unified Contract came into force on the 1 April 2007 with the new Contract for Signature Standard Terms, and Office Schedules. However the Specification of the General Civil Contracts continues to apply (until 30 September 2007).
9. The Commission issued on 1 March 2007, a consultation, which comprised of a number documents making up the Specification of the Unified Contract. This paper deals with the Immigration Category Specific Section.
10. All parts of the Immigration Specification have been subject to extensive formal and informal consultation. The Commission held a number of consultation meetings with representative bodies<sup>4</sup> the last of which concluded on 4 April 2007.

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<sup>3</sup> For the outcome of that consultation see - [www.legalservices.gov.uk/civil/docs\\_for\\_consultation/openConsultations002.asp](http://www.legalservices.gov.uk/civil/docs_for_consultation/openConsultations002.asp)

<sup>4</sup> See Appendix A for a full list of respondents.

## **General Information on the Civil Specification**

11. The Civil Specification is the main vehicle for bringing into effect the various civil fee schemes from 1 October 2007 (1 January 2008 for Mental Health), supported by a new Funding Order and certain Funding Code and Regulation changes. The Specification consists of both general and category specific provisions.
12. In drafting the Immigration Specification there were three overall objectives:-
- (i) To give effect to the new fee schemes as published in the 'Way Ahead' document;
  - (ii) To update and amend the old Contract Rules in order for them to be fit for purpose for a standard fee regime;
  - (iii) General updating and modifying of the Immigration Specification to match the new Unified Contract Standard Terms.
13. The key challenge for the Commission was that the current Immigration Specification (as per the General Civil Contract) was simply not designed for a standard fee regime.
14. In negotiations and consultation with the representative bodies we have tried to take a compromise approach of maintaining the flavour of many of the old Immigration Specification provisions, but departing from those where it is necessary to do so either to achieve clarity on an issue, or where the old rules simply would not be fit for purpose in a standard fee regime.

## **Summary of Responses**

15. A total of 11 written responses to the draft Immigration Specification were received.
16. Of these 9 were from the representative bodies or national organisations, including the Law Society, the Legal Aid Practitioners Group, Advice Services Alliance, Immigration Law Practitioners Association, Bail for Immigration Detainees, Medical Foundation, Asylum Aid, the Bar Counsel and Refugee Legal Centre.
17. Of the remaining responses, 1 was from an NfP organisation and 1 from a solicitors firm<sup>5</sup>.

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<sup>5</sup> See Appendix A for a full list

## **Responses to Contract Documents**

18. The draft Immigration Category Specific Specification documents were published on 1 March 2007 and have changed significantly following the consultation responses and constructive discussion with representative bodies, in terms of:

- Structure;
- Wording; and
- Contractual provisions.

19. In this paper, the responses to the consultation on contract provisions have been summarised. Below each summary is the Commission's response in italics, which sets out the current position in the final Contract documents and reasoning where necessary.

20. Respondent's drafting points have all been considered and amendments made if necessary to the Contract document.

21. The Commission is aware that there were a number of provisions of particular concern for the Representative bodies. In order to address these concerns in a structured way this report has been set out as follows:

- Overview of Contract Work in the Immigration Category of Law
- Part 1: Fee Levels and Payment Provisions
- Part 2: General Rules for Suppliers

22. References to paragraphs of the draft Immigration Specification in this document are to paragraphs in the draft document circulated during the consultation.

## **Overview of Contract Work in the Immigration Category of Law**

23. Respondents noted that the Levels of Service Table on page 1 of the draft Immigration Specification was unclear.

*LSC response:*

*At a meeting between the representative bodies and the LSC on 4 April 2007 it was agreed that the table would be removed and this has been done.*

24. At the meeting on 4 April 2007 the representative bodies noted that they felt the £500 Upper Financial Limit for bail was too low.

*LSC response:*

*The £500 limit for bail only will be retained. This limit is extendable on application to the LSC.*

25. Respondents asked that there be separate and considered treatment for the following groups of vulnerable clients; victims of torture, mentally ill or disordered clients, victims of domestic violence or rape, victims of trafficking and deportation cases following criminal convictions.

*LSC response:*

*The specification does distinguish between some categories of clients for example, unaccompanied children seeking asylum and those in detention. The LSC acknowledges that by their very nature asylum applicants are vulnerable clients. Under the draft specification suppliers will be required to continue to undertake work that is reasonable and appropriate for the client's case.*

26. Representative bodies noted that it was agreed at the meeting on 4 April 2007 that further thought would be given to non - exclusive contracting in detained cases (bail). Representative bodies suggested that bail should be dealt with under a single, separate, 'bail only' Controlled Legal Representation (CLR) form, both at Legal Help and appeal stages.

*LSC response:*

*The LSC is revising the current CLR form with a view to re-designing it and making it more user friendly.*

*At present it is not anticipated that there will be a separate 'bail only' CLR form, which the LSC believes could lead to confusion over costs limits.*

## **Part 1**

### **Fee Levels and Payment Provisions**

27. Respondents felt that there was a dearth of information as to how fixed fees were calculated and that the only data the LSC has had to work from was historic data of questionable relevance.

*LSC response:*

*This issue has been addressed in a previous consultation exercise, full details of which can be found in the policy paper 'Legal Aid Reform: Final Immigration & Asylum Fee Schemes' which was published in March 2007 and is available on our website.*

28. Some respondents felt that the IAS and RLC's exemption from the new fees scheme until 2009 gives these organisations an unfair advantage over private practice and other NfP Suppliers.

*LSC response:*

*The LSC is not prevented from introducing special transitional arrangements applicable to Not for Profit ("NfP") operators where, as here, there are good reasons to distinguish those operators from others during a transitional period. The arrangements applicable to RLC and IAS were cogently justified by their particular historical funding position.*

29. Respondents asked that the Commission reinstate an equivalent to paragraph 12.2.7 of the current Immigration Specification, enabling the immigration advisor to open a new immigration matter start for NASS assistance, beyond 30 minutes, which is of a nature that does not require referral to a housing or welfare benefits specialist.

*LSC response:*

*This was considered and responded to in a previous consultation exercise and a full response can be found in Legal Aid Reform: Final Immigration and Asylum Fee Scheme. An extract is reproduced below.*

*"We know that some responses to the consultation asserted that NASS advice directly relates to the asylum application itself and must therefore remain within the scope of the immigration category however we believe that advice in relation to NASS is in effect welfare benefits advice.*

*Prior to April 2004 NASS advice was reported as Welfare Benefits. With the reforms to immigration and asylum legal aid in 2004 the Immigration Specification was amended to provide that NASS-only advice in excess of 30 minutes must be opened as a non-asylum NMS in the immigration category. This was to prevent the perverse situation where the financial limits for advice*

*relating to NASS would be higher than the financial limit for an asylum application itself. This will no longer be an issue under the graduated fee scheme.”<sup>6</sup>*

30. Respondents suggested that clarification was needed at that paragraph 11.2 (a) (as was) of the draft Immigration Specification to make clear that it applies to detained as well as to non-detained cases, with the result that fixed fees do not apply to any advice, application, appeal or bail application for a detained client where an initial asylum claim was made prior to the coming into force of the fixed fee scheme.

*LSC response:*

*The LSC’s view is that clarification is not necessary, as the provision in question is clear. A change to the draft as suggested may actually cause confusion.*

31. Respondents sought express clarification that an asylum application commenced before 1 October 2007 that goes on to become a related Human Rights Act application will also fall within 11.2 (a) (as was), as a matter which is paid at hourly rates

*LSC response:*

*We have clarified this point.*

32. Respondents requested that advice in relation to form filling and initial advice in relation to asylum applications prior to attendance at the Asylum Screening Unit, where the client then ceases to give instructions should not be paid at hourly rates but under the Graduated Fee Scheme.

*LSC response:*

*These are discrete items of work that do not fall within the Graduated Fee Scheme.*

33. Respondents noted that there is no equivalent in the draft Immigration Specification to 12.4.3.7 of the current Immigration Specification (which provides for additionally enhanced rates to be negotiable in cases raising complex or novel points of law, or having public importance wider than the interests of the individual client).

*LSC response:*

*We have carefully considered the points raised and have re-instated the provision. As we have a quality assured supplier base as a result of compulsory accreditation, we expect that the need to apply for enhanced rates will be very low.*

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<sup>6</sup> Legal Aid Reform: Final Immigration and Asylum Fee Schemes page 5 paragraph 2.9 and 2.10

34. Respondents felt that it was not acceptable for Suppliers to be expected to continue work unremunerated on matters arising from a concluded matter under fixed fees. This applies to what Respondents said was the open ended requirement at 11.9 and 11.14 (as were) in the draft Immigration Specification that the fixed fee is to cover not only advice on outcome and any status granted, but also “*carrying out any necessary work*”. Respondents felt that where CLR is not needed, or not granted, but action other than advising on outcome and reporting the matter as concluded is needed then a fresh matter start is both justified and necessary.

Respondents raised similar issues regarding the question of determining the point where a stage is completed and how further work is to be carried out post determination or appeal if it is outside of the remit of the subsequent stage.

*LSC response:*

*It is unclear what further work is being alluded to;*

*If the work is in respect of travel documents then it is remunerable under hourly rates.*

*If the work is respect of non-receipt of status documents then suppliers have the option of conducting work under hourly rates in making an application for Judicial Review.*

*If the work is in respect of a fresh application then it is remunerable under hourly rates (or post 1 Oct 2007 claims another Graduated Fee).*

*Matters cannot be kept open on ‘just in case’ basis. If a client receives removal directions/ is detained a new matter start may be used.*

*This issue will be addressed in more detail in FAQ’s on the new Immigration Specification.*

35. Respondents’ suggested that paragraph 11.88 (as was) of the Immigration Specification should exclude cases where the appellant is a minor or lacks mental capacity and that provision should also be made to allow sponsors to sign on the appellant’s behalf when the appellant is abroad and is unable to access post or fax

*LSC response:*

*The LSC agrees with this point and has made amendments to the draft Immigration Specification accordingly.*

36. Respondents’ suggested that clarification was required as to the meaning of “*any post appeal advice and assistance*” and that there was an issue as to how this

work will be remunerated, namely that; under the present system, Suppliers usually revert to Legal Help once the appeal process has concluded, but this will not be possible under the new scheme as Legal Help will have concluded. Respondent's argued that under clause 11.13 (as was) it will not be possible to continue under CLR once the decision regarding the funding of a Section103 application is made and it is not clear how post appeal advice will be funded in the event of a successful appeal.

*LSC response:*

*Provision of advice in respect of outcomes will be as under the existing Immigration specification, namely under Review and Reconsideration. As stated previously, providers should not be keeping files open 'just in case'. Where a matter has been determined and the client has been advised on the outcome unless it has been identified that additional work needs to be undertaken the matter should be closed. The examples of further funding for additional work, as set out at paragraph 34 equally applies to this issue.*

37. Respondent's felt that it is unacceptable that travel and waiting times are included within the advocacy fees.

*LSC response:*

*The LSC notes that this issue was raised addressed as part of a previous consultation. A full response to this issue can be found at points 2.23 to 2.27 of Legal Aid Reform: The Final Immigration and Asylum Fee Scheme. Better control and more certainty of the cost of non-advice services such as travel and waiting is a key aim of the LSC. We want to focus the payment of funds to provide advice services to clients within their local community and discourage suppliers from incurring travel costs for clients who could be referred to a more local supplier.*

38. Some respondents felt that the creation of four separate disbursement limits and the relationships between them is unduly complex and may result in Suppliers unwittingly falling foul of the rules and being unable to recover disbursements they have reasonably incurred.

*LSC response:*

*We have simplified the disbursement limits.*

*In relation to Legal Help matters (both hourly rate matters and matters funded through the Graduated Fee Scheme) the disbursement limit is £400.*

*In relation to Controlled Legal Representation matters funded through the Graduated Fee Scheme the disbursement limit is £600. For hourly rate matters disbursements will continue to be included within the Upper Financial Limit.*

*These limits are extendable on application to the LSC.*

39. Representative bodies noted that at the meeting on 4 April 2007 it was agreed that at the phrase “*maximum sum*” at 11.23 (a) and (b) (as was) would be modified to indicate from the outset that this is merely the maximum that may be incurred without obtaining authority to exceed it.

*LSC response:*

*The LSC notes that the draft Immigration Specification makes clear that “these limits are extendable on application to us”.*

40. Respondents requested that there be a simplified form and procedure for applications under the new regime.

*LSC response:*

*The LSC is in the process of revising and simplifying existing application forms in response.*

41. Respondents raised concerns regarding the Commission’s discretion to vary disbursements, particularly in relation to individual Suppliers.

*LSC response:*

*This is part of the management role of Suppliers and forms part of existing policy and practice.*

42. Respondents sought clarification about the correct approach to exceptionality calculations.

*LSC response:*

*The correct approach to exceptionality calculations is to calculate the true total hourly rate cost of a case and then deduct any additional payments.*

43. Respondents suggested that at paragraph 11.40 (c) (as was), the limit of £100 inclusive of disbursements in the circumstances described at (c) (i) could unfairly penalise Suppliers who take full instructions at the initial client interview.

*LSC response:*

*It is not reasonable to take full instructions at this point. The client may be disbursed, fast tracked, etc. Indeed under the NAM process, this is even more likely.*

44. In respect of paragraph 11.47 (as was), respondents saw no need to introduce an Individual Disbursement Limit in addition to the Total Disbursement Limit.

*LSC response:*

*The LSC has agreed to this proposal and disbursement limits have been agreed as set out in paragraph 38.*

45. Respondents were concerned that paragraph 11.51(b) (as was) in respect of the upper cost limit for non-asylum appeals has been reduced from the £1,600 limit in the current specification and did not agree that the limit for non-asylum matters should be lower than the £1,600 limit for asylum appeals.

*LSC response:*

*In relation to the change of limit see the extract from our letter to all Suppliers on the 25 February 2005:*

*“The costs limit has been extended from £1200 to £1600 to take into account the new Case Management Hearing which will be implemented by the AIT.”*

*In the July 2005 Post Consultation response to the Asylum and Immigration Tribunal contract changes we commented:*

*“Since the creation of the AIT on the 4 April 2005 CMR Hearings have not normally been listed for Immigration appeals. CMRH’s have primarily only taken place in relation to asylum appeals. The Immigration Specification cost limit does not differentiate between asylum and immigration appeals. In the cases where a CMRH has not taken place the Commission would expect that the costs incurred under CLR would be in the region of £1200. The Commission would not expect an adviser to seek an extension of the Upper Costs Limit of £1600 in immigration cases. It is anticipated that this would be very rare and would only occur in exceptional cases.”*

*Therefore we have changed the costs limits to reflect the actual practice of the AIT, i.e. that CMRH’s do not take place in immigration cases and therefore the increase in the costs limit in April 2005 for immigration cases was not needed.”*

46. Respondents were concerned that the new limit of £500.00 for bail applications set out at 11.51 (c) (as was) would lead to applications for extensions becoming the norm, thus incurring additional costs for the time spent making the extension application.

*LSC response:*

*The LSC will be introducing new reporting requirements in relation to bail that will give us the cost of each bail application. We will monitor this carefully and may seek to introduce a fixed fee for bail applications in the future.*

47. Respondents felt the wording of paragraph 11.56 (as was) was unclear stating on the one hand that post AIT appeal advice is subject to the CLR upper financial limit but then suggesting on the other, that it is additional to the upper financial limit

Respondents noted that the current Immigration Specification at 12.4.1.1 provides that the CLR Upper Cost Limit includes costs incurred in “*advising the client and taking further instructions regarding the immigration judge’s determination*” and that their practice has always been to revert to legal help for any continuing work justified under Funding Code criteria.

Respondents felt that clarification was need as to whether the new wording, “*following the substantive appeal hearing*”, is intended to change this, and if so how.

Respondents further noted that if it was not intended to change the ambit of CLR then the current wording should be retained, possibly with the substitution of the word “Tribunal” for “Immigration Judge” so that panel cases are included.

*LSC response:*

*There is no change, the additional wording is to make existing provisions clearer. The current specification at 12.4.1.1 provides that:*

*“Your total claim for costs.... will include ... advising the client and taking further instructions regarding the Immigration Judges determination...”*

*The LSC has agrees that the words “Immigration Judge” should substitute the word “Tribunal” and have also and have also substituted the word “following” for “regarding”, for the sake of clarity.*

48. Respondents expressed concern that the current Immigration Specification provides for up to 3 hours costs (including counsel’s fees) to consider the merits of a section 103A application whilst the new Immigration Specification only allows for £100 to be claimed.

*LSC response:*

*This stage only covers the consideration of the merits of an application for review and reconsideration under s.103A. Advising the client and taking further instructions is covered by the CLR Upper Financial Limit. Having taken the client’s instructions the adviser will then consider the merits of making an application for review and reconsideration.*

*The drafting and preparation of such an application does not form part of these costs, they form part of the Review and Reconsideration stage costs. The LSC*

*therefore believes that the additional sum of £100 to consider the merits of making such an application sufficient.*

49. Some respondents welcomed the provisions in paragraphs 11.67 and 11.68 (as were) namely the provision for payment for work done in relation to reviews of AIT decisions to refuse section.103D costs orders. But, given that that the work is to be undertaken at risk and the costs payable only if the review succeeds, Respondents could not see why uplifted rates should not be payable.

*LSC response:*

*The LSC agrees that as the work is undertaken at risk uplifted rates will be payable where the provider is successful in obtaining a section. 103D costs order.*

50. Representative bodies expressed concern about what they felt was the effective abolition of stage claiming implemented as a result of paragraph 11.74 (as was).

*LSC response:*

*The reasoning behind stage claiming has reduced over recent years. Previously the time taken to resolve asylum applications meant that many advisers had large amounts of cases which could not be billed as the Home Office decision making and appeal process took, in some cases, many years to finally resolve. Changes in legislation and Home Office processing has meant that such backlogs have been reduced. At the same time the numbers of applications have also reduced.*

*Given fast application times by the Home Office under the New Asylum Model cases will be dealt with within shorter time scales than previously. The Home Office aim to have finally resolved a case within a six month period – i.e. that the client is either leave to remain or removed from the UK.*

*Stage claiming will remain for those cases that are not subject to Graduated Fees.*

51. Respondent's noted that where fixed fees do apply then clarification is needed in the "Claiming" section at 11.74-11.76 (as were) as to how to claim for these cases

*LSC response:*

*This relates to SPAN guidance – which will be contained in a separate document.*

## **Part 2**

### **General Rules for Suppliers**

52. Respondents felt that many Suppliers had limited opportunity to stage bill Controlled Work which produces high levels of unbilled WIP.

*LSC response:*

*This relates to SPAN guidance – which will be contained in a separate document*

53. Representative bodies were concerned that provision for a family member to sign a CLR form had been removed.

*LSC response:*

*The LSC has reconsidered this point and agrees that this provision should be retained. The Immigration Specification has been redrafted accordingly.*

54. Representative bodies noted that in response to the February 2007 consultation on the CLS (Financial Regulations) 2000, they had been advised that the proposal to increase the non-asylum immigration capital limit to £8,000 with client contributions to be collected by Suppliers, was not to be proceed in April 2007.

*LSC response:*

*This proposal did not proceed and the Immigration specification has been redrafted accordingly.*

55. Respondents felt that paragraph 11.96 (as was) of the draft Specification should be amended to make clear that in a fixed fee case the work of advising on and applying for a certificate is not covered by the fixed fee but justifies a new matter start. Respondents argued that this would be consistent with 11.2(g) (as was) which specified that this work is always paid outside the fixed fee scheme at hourly rates.

*LSC response:*

*This would only be a new Matter Start if it were a new client.*

*It does not constitute a new Matter Start if it's an existing client, but it does justify an additional payment - and as per 11.2 (g) (as was) it is paid at hourly rates.*

*Paragraph 11.96 (as was) has been redrafted to make clear that preparation and consideration for a certificate for licensed work which can be undertaken under a*

*Controlled Work Matter, includes work done in complying with pre-action protocol.*

56. Respondents felt that clarity was needed with regard to situations in which a devolved power firms grant an emergency certificate, in particular that it should be made clear that all work in relation to the submission of the application forms to the Commission is chargeable under that certificate at licensed rates, with no need to open a Legal Help matter purely for that purpose.

*LSC response:*

*This issue is to be dealt with in FAQ's on the Immigration Specification.*

57. Representative bodies requested that paragraph 11.100 (as was) of the draft Immigration Specification be amended to make clear power under it would always be exercised reasonably, and never without adequate notice and full consultation.

*LSC response:*

*We are under a duty as a public body to act reasonably and are committed to not making major changes without consultation. Indeed Clause 2.2 of the Unified Contract Standard Terms specifically provides that we will act in good faith and as a responsible public body.*

58. Respondents felt that paragraphs 11.102 - 11.103 (as were) did not make clear at what point advice about an issue of law relating to eligibility and advice about form completion can be differentiated.

*LSC response:*

*By way of clarification the LSC has amended the Draft Immigration Specification to reflect the fact that these provisions do not apply to the applications for leave/extension of leave to remain in the UK.*

59. Respondents were concerned by the 3 hour cap on travel and waiting for visits to clients in detention centres

Further, Representative bodies noted that at the 4 April 2007 meeting it was stated that there was an error in the draft paragraph 11.110, which it was agreed would be amended to apply both to 11.109 (a) and to 11.109 (b) as were, with the result that, in fixed fee cases, travelling and waiting time may be claimed in addition to the fixed fee not only in existing client cases but also in all cases where there are no Exclusive Contracting arrangements in operation in the place of detention.

*LSC response:*

*The LSC has made the amendments to 11.110 (as was) as requested.*

*The LSC accepts that waiting time at the IRC is outside the control of the adviser. We will pay for actual waiting time incurred at the IRC so long as it is due to IRC delays and not through the adviser arriving too early.*

*In relation to the travel time, we wish to encourage referral to local providers wherever possible.*

60. Respondents argued that paragraphs 11.119 to 11.128 (as were) pose difficulties with closing cases and then being unable to start a new case to advise and assist with appeals and could see no justification for appeals not to be treated as separate matters given that, they say, only a percentage of the overall number of matters dealt with by way of initial advice will go on to require an appeal.

*LSC response:*

*This guidance is from the current Immigration Specification. There has been no change in LSC policy in relation to the measurement of matters starts for such cases. Where Legal Help has been granted in relation to a matter any subsequent grant of Controlled Legal Representation in relation to that same matter will not constitute a new matter start.*

61. Respondents suggested that paragraph 11.121 (as was) required clarification as to the circumstances where it is justified for a family reunion application to become a separate matter start

*LSC response:*

*The LSC agreed with this suggestion and has redrafted the paragraph, replacing "...could where justified..." with "will".*

62. At the meeting on 4 April 2007, Representative bodies asked that paragraph 11.122 (as was) of the draft Immigration Specification be amended to make clear that a new asylum matter start is justified where there is reason to believe that there may be grounds for a fresh claim, not just where a client has already made such a claim

*LSC response:*

*The LSC agreed with this suggestion and the Immigration Specification has been redrafted to reflect this.*

63. Respondents raised concerns in respect of paragraph 11.125 (as was), particularly in relation to situations where a client applies to 'switch status' whilst a first application remains pending. Respondents argued that there are many reasons why a change in the client's circumstances may legitimately necessitate a further application on different grounds.

*LSC response:*

*The LSC notes that if extra work is justified, this will mean that the case is likely to fall into the escape mechanism and be remunerated at hourly rates anyway.*

64. Respondents questioned why guidance on granting CLR should be contained in a separate document.

*LSC response:*

*The Specification should not be confused with guidance.*

65. Respondents requested that the increment for those advisers accredited at Level 3 should be 15% rather than 5% to put such increments on par with those available to family practitioners.

*LSC response:*

*All suppliers carrying out publicly funded work are accredited through the Immigration and Asylum Accreditation Scheme. Under the current Immigration Specification a 5% uplift is payable for those accredited to Level 3 and will continue to be payable from October 2007. In relation to the Family scheme the 15% will no longer be payable to individuals as it is currently.*

## **Appendix A – List of Respondents**

### **Name of Representative Body/National Organisations**

THE LAW SOCIETY

LAPG

ASA

IMMIGRATION LAW PRACTITIONERS ASSOCIATION

BAIL FOR IMMIGRATION DETAINEES

REFUGEE LEGAL CENTRE

MEDICAL FOUNDATION FOR CARE FOR VICTIMS OF TORTURE

ASYLUM AID

BAR COUNSEL

### **Name of Individual Organisation**

GLOUSTER LAW CENTER

WILSON & CO