

**PROPOSED AMENDMENTS TO GENERAL CIVIL CONTRACT
SOLICITORS AND NfPS**

For consultation and implementation on 1 October 2006

This consultation ends at **12 noon on Friday 14 July 2006**. All responses should be sent to:

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Note:

In accordance with the Freedom of Information Act 2000, the Legal Services Commission may publish your name and contents of your response unless you provide sufficient reasons for asking us not to. Please ensure that your response is marked clearly if you wish your response or your name to be kept confidential. In any event, confidential responses could still be disclosed in a summarised or anonymised format.

Proposed new text is shown underlined. Proposed deletions are shown in ~~strikeout~~.

IMMIGRATION

**General Civil Contract (Solicitors) Specification - Para 12.2.3
General Civil Contract (NfP) Specification - Para 13.2.3**

The addition of 12.2.3(3) clarifies that only accredited advisers at Level 1, Level 2 or Level 3 should have conduct of their own case files. Level 1 Probationers may not have conduct of their own case files.

Prior to the introduction of accreditation the Immigration Specification provided that only experienced fee-earners should have conduct of their own case files. Following the introduction of mandatory accreditation, this provision was removed on the assumption that Level 1 Probationers would not have conduct of their own case files and we are now clarifying this position.

Accreditation

1. From 1 April 2005 all Contract Work in the Immigration Category will be restricted to individuals who are registered under a system of accreditation approved by the Commission.
2. From 1 April 2005 or such later date that we may notify you in writing only those individuals who are accredited at a recognised level under the Scheme may carry out publicly funded immigration and asylum work. Thereafter any work carried out by a non-accredited individual (including work on pre-existing cases) must not be claimed as Contract Work and will not be funded by the Legal Services Commission.
3. Only advisers who are fully accredited at Level 1, Level 2 or Level 3 should have conduct of their own case files. Level 1 Probationers may not have conduct of their own case files.

General Civil Contract (Solicitors) Specification - Para 12.2.13

General Civil Contract (NfP) Specification - Para 13.2.11

The amendments to para. 12.2.13(1) anticipate possible changes to the way in which asylum applications will be processed following the Home Office roll-out of the New Asylum Model (NAM). The Home Office and the Commission plan to work together to pilot new methods of providing early advice to asylum seekers. The amendments will enable the Commission to pilot early advice provision with specified providers, following an appropriate bid round process.

The amendments to para. 12.2.13(2) recognise the extension of fast track processes to Yarl's Wood in May 2005 and allow for any further extension of the fast track process to other Removal Centres following the closure of Oakington. They also recognise that, in some limited instances, individuals have been subject to fast track processes but are moved to other Detention holding facilities where their claim continues to be processed under the fast track procedure. This amendment has been agreed with the NSA Monitor and will allow advisers to continue to provide advice to an individual under the fast track scheme.

The amendments to para. 12.2.13(2) also allow detained non-suspensive appeals cases and the NAM Early Legal Advice Pilot at Solihull pilot to be included within Rule 12.2.13 (1).

Cases which require special authorisation

- 1 You may not provide Controlled Work to a client where the client's case is subject to (a) a detained Home Office fast track process (as defined by us, which we may vary from time to time in writing) or (b) is subject to a pilot

specified by us either (i) in this Specification or (ii) by notice in writing to you unless:

- (a) Your contract schedule specifically allows you to do this; or
- (b) A supplier contracted to provide Controlled Work under (a) above refers the client to you.

2 Unless otherwise notified in writing:

Rule 12.2.13 (1) applies to all cases at ~~Oakington from 1 April 2004~~, and all cases subject to the detained Home Office fast track process at Oakington, Harmondsworth or Yarl's Wood and cases subject to that process where the client is detained elsewhere in England or Wales. from 1 July 2004.

Rule 12.2.13 (1) applies to the detained fast track process for potentially non-suspensive appeal cases at locations and from dates to be specified.

Rule 12.2.13 (1) applies to the following specified pilot - all cases subject to the New Asylum Model Early Legal Advice Pilot at Solihull from 1 October 2006.

This Rule 12.2.13 (1) does **not** apply to cases (a) where you were performing Contract Work on the client's case before any date specified for the commencement of its application to a location or pilot where an existing client was in Oakington or Harmondsworth before those dates or (b) once a client has left, or been removed from, ~~those~~ any specified location or pilot.

3 Where a client has been referred to you under 12.2.13(1)(b) you must keep a record of the referral, including the date and the name of the supplier who made the referral, on your file.

General Civil Contract (Solicitors) Specification - Para 12.3.2 **General Civil Contract (NfP) Specification Para - 13.3.2**

This amendment (adding sub para (d)) brings attendance at interviews back into scope for the purposes of the NAM Early Legal Advice Pilot at Solihull.

Attendance at interviews

We will not pay for attendance at interviews conducted by the Home Office by you or any agent of yours unless you are authorised by us or we have granted you an extension to the Legal Help Cost Limit for this purpose.

1. You are authorised to claim reasonable costs in addition to the Legal Help Cost Limit for time spent, including travel and waiting, in accompanying a client to a substantive interview where:
 - (a) The client is subject to a Home Office fast track process (see Rule 12.2.13 above); or

- (b) The client is to be interviewed by an Immigration Officer under PACE (usually in relation to offences connected with illegal entry); or
- (c) Where it is alleged that the client may pose a threat to national security; or
- (d) The client is subject to the New Asylum Model Early Legal Advice Pilot at Solihull from 1 October 2006 (see Rule 12.2.13 above).

General Civil Contract (Solicitors) Specification - Para 12.6

General Civil Contract (NfP) Specification - Para 13.6

This amendment (adding sub-para (a)(ii)) is proposed because of representations received from stakeholders who have highlighted the lengthy delay between submitting a fresh application for asylum and receiving a decision from the Home Office. It will allow suppliers to claim for work undertaken in relation to a fresh application before a Home Office decision is made.

Reporting a case – Stage Billing

1. You **must** submit a Controlled Work claim within three months of the end of each of the following stages of the case citing the correct Unique Client Number:

- (a) Legal Help:
 - (i) the date you receive the initial Home Office decision or following the submission of a fresh application for asylum to the Home Office (see 12.2.6 (4)) or when you have completed work under Legal Help if earlier;
 - (ii) when all further work under Legal Help has been completed. Only those costs incurred since stage (a)(i) should be reported.

NON-ASYLUM IMMIGRATION

Subject to the outcome of consultation on anticipated regulations, add a new Paragraph 5.8. to reflect them. Options likely to be considered are set out below:

- (a) raise the CLR capital limit for non-asylum immigration from £3,000 to £8,000 and continue to require no contributions;
- (b) raise the CLR capital limit for non-asylum immigration from £3,000 to £8,000 and require contributions to be paid to the supplier, who will retain them and claim any balance of costs from the LSC (or repay any excess over costs to the client);
- (c) raise the CLR capital limit for non-asylum immigration from £3,000 to £8,000 and require contributions to be paid to the LSC (which will deal with them in the same way as contributions in Licensed Work);
- (d) make no change

The contract enables amendments required because of regulations to be made at any time. The above information is provided as we are aware of the possibility of regulations having effect in October 2006.

QUEEN'S COUNSEL

General Civil Contract (Solicitors) Specification – Paras. 6.5 and 7.2 (prior authority to instruct Queen's Counsel)

General Civil Contract (NfP) Specification – Paras. 9.5 and 15.2 (prior authority to instruct Queen's Counsel)

Add a new sub paragraph 3 to Paragraph 6.5 (9.5 NfP) and sub paragraph 6 to Paragraph 7.2 (15.2 NfP) as set out below:

For the avoidance of doubt, prior authority to instruct a Queen's Counsel (see regulation 59 of the Civil Legal Aid (General) Regulations 1989) is required only where Queen's Counsel will act as such, and not where Queen's Counsel choose to act and be paid only at junior counsel rates.