

General Unified Contract

Civil Specification

Section 10: Family Category of Law Specific Provisions

This is a draft of the proposed Family Category Specific Provisions to have effect from October 2007

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Part A - General Remuneration Provisions

Levels of Service

10.1 The following levels of service are available in the Family Category:

Level	Funded As
Legal Help	Controlled Work
Family Help (Lower)	Controlled Work
Family Help (Higher)	Licensed Work
Legal Representation	Licensed Work

The grant of each level is subject to all relevant Funding Code Criteria and Guidance in Volume 3 of the LSC Manual.

Remuneration for Family Work

10.2 The following table shows the remuneration regime for all levels of service and categories of case with the Family Category, subject to the further detailed provisions of this Specification. All fees payable are exclusive of VAT and disbursements.

LEVELS OF SERVICE								
	Legal Help		Family Help (Lower)		Family Help (Higher)		Legal Representation	
	Payment By	Escape	Payment By	Escape	Payment By	Escape	Payment By	Escape
PUBLIC LAW								
s31 Care Proceedings	SF	3	SF	3	N	N	GF *	2
Other Public Law	SF	3	N	N	N	N	HR	N
PRIVATE LAW								
Divorce Petition Only	SF	N	N	N	N	N	N	N
Domestic Violence Proceedings	SF	3	N	N	N	N	HR	N
Private law Children	SF	N	GF	3	SF	3	HR	N
TOLATA	SF	N	GF	3	HR	N	HR	N
Ancillary Relief and all other Private Family	SF	N	GF	3	GF	3	HR	N

The "Payment By" column shows how payment is determined using the following codes:

SF = Standard Fee

GF – Graduated Fee, ie. two or more different Standard Fees are available for this service, entitlement being determined by the Specification. In the case of s31 Care Proceedings (marked GF*) the Graduated Fee applies to services other than advocacy or appeals against final orders; such services are payable by means of Hourly Rates.

HR = Hourly Rates

N = Not Available or Not Applicable

The “Escape” Column shows whether a case can escape from the Standard or Graduated Fee and be paid by way of Hourly Rates. For example “3” means that if remuneration calculated on an Hourly Rates basis would be more than three times the amount payable by way of Standard fee, payment will be made solely by way of Hourly Rates.

The Standard Fees and Hourly Rates payable are set out in sections 2, 3, 7 and 9 of the Payment Annex.

Regional Fees

- 10.3 Whilst some fees are of national application, certain Standard Fees vary according to Region. All Regional fees are set out in Payment Annex. Where regional fees are specified you should claim the fee for the region within which the office of the fee-earner undertaking the work is situated.

Regional fees are determined in accordance with the LSC Regional Arrangements 2000 as follows:-

Regional Fee	LSC Region (Regional Office)
North	North Western Region (Manchester)
	North Eastern Region (Newcastle)
	Yorkshire & Humberside Region (Leeds)
Midlands	Merseyside Region (Liverpool)
	West Midlands Region (Birmingham)
	East Midlands Region (Nottingham)
London	Eastern Region (Cambridge)
	London Region (London)
South	South Eastern Region (Reading)
	South Western Region (Bristol)
Wales	Wales Region (Cardiff)

Cases Involving More Than One Fee

- 10.4 Where more than one Level of Service is legitimately provided for a client, remuneration may be claimed separately for each Level. For example, if a client receives Legal Help followed by Family Help (Lower) the Legal Help fee is claimable in addition to the Family Help (Lower) fee.

Where you are providing a particular Level of Service you may not go on to grant or apply for a further Level of Service unless all work which could be carried out under the existing Level of Service has been completed. For example, if you are providing Family Help (Lower) you may not apply for a certificate for Family Help (Higher) unless you have completed all work within the scope of Family Help (Lower) and all other relevant criteria are satisfied. See in particular Funding Code Criteria 11.3.3 and 5.4.4. The level of remuneration payable for a Level of Service is not a relevant consideration in deciding whether it is appropriate to move on to the next level.

Where it is appropriate to provide a particular Level of Service, such as Legal Representation, it does not follow that all lower Levels of Service may be claimed. In particular, if at the first meeting with the client it is appropriate to grant the client Emergency Representation or Emergency Family Help, no fee may be claimed for providing Legal Help or Family Help.

If, at the first meeting with the client, it is appropriate to make an application for Legal Representation for that client, but you do not have a devolved power to grant Legal Representation, you may claim Legal Help to advise the client and make the application for Legal Representation, but you may not claim Family Help (Lower).

In domestic violence proceedings there is no specific Standard Fee for Family Help. Therefore, you may proceed from Legal Help straight to Legal Representation where all other relevant funding criteria are satisfied.

Changes of Solicitor

- 10.5 Funding Code Procedure Rule B9 and section 2 of the General Provisions of this Contract Specification restrict the ability of a supplier to provide Legal Help where the client has received Legal Help from another supplier, except in specified circumstances. This approach applies equally to Family Help. Where a client has received family services and wishes to change supplier, you should not provide services unless there is good reason to do so. The mere fact that the client disliked or disagreed with advice previously given cannot count as good reason for this purpose.

Where you are permitted to carry out Controlled Work for a client following a change of solicitor, you may claim payment for such Controlled Work under the Rules contained in this Specification.

Where you provide Licensed Work following a change of solicitor in relation to work for which a Standard Fee is available, you should at the end of the case determine whether the case escapes from the Standard Fee taking into account both the work you have carried out and the work carried out by the previous supplier under that Level of Service. If the case as a whole escapes from the Standard Fee, both you and the other supplier may claim payment for work reasonably done under Hourly Rates.

If such a case does not escape the Standard Fee, only one Standard Fee may be claimed for the case. If you are the last supplier you may claim this fee but must pay 50% of the fee to the earlier supplier (or divide the fee in equal shares if there has been more than one previous supplier).

An exception to the above is where solicitors initially act for more than one party in s31 Care Proceedings and a client transfers to new solicitors during the case. In that situation both the original and the new solicitor may claim a Standard Fee in accordance with rule 10.14 below.

Enhancement of Family Prescribed Rates

- 10.6 The rules on enhancement of Hourly Rates in paragraphs 7.35 to 7.40 of the General Provisions apply to Family Work subject to this paragraph and paragraph 10.7 below.

The percentage above the Prescribed Rate by which Family Rates may be enhanced may never exceed 100%.

Panel Membership Enhancement in Family Cases

- 10.7 Where the relevant work is done by a member of a relevant panel:
- (a) the Threshold Test at section 7.36 shall be deemed to be satisfied in respect of that work; and
 - (b) the minimum level of enhancement allowed in respect of that work shall be 15%.

In this provision

- (a) “relevant panel” means:-
- (i) the Solicitors’ Family Law Association Accredited Specialist Panel; or
 - (ii) in relation to work done under a certificate which includes proceedings relating to children, the Law Society’s Children Act Panel; and
 - (iii) The Law Society Family Law Panel Advanced; and
- (b) “proceedings relating to children” means proceedings in which the welfare of children is determined, including, without limitation, proceedings under the Children Act 1989 or under the inherent jurisdiction of the High Court in relation to children.

PART B – PUBLIC LAW FEE SCHEMES

Scope of Public Law Work

10.8 For the purposes of remuneration, “Public Law Work” covers all work which either:-

- Falls within section 11.7, 11.8 or 11.9 of the Funding Code Criteria (Special Children Act Proceedings, Related Proceedings and Other Public Law Children cases); or
- Relates to a Family Dispute which, if it proceeded to Legal Representation, would fall within any of those sections of the Funding Code.

Public Law Work is subject to the remuneration regime set out in the “Public Law” section of the Table at paragraph 10.2 above.

Where Public Law Work is payable by means of a standard or graduated fee, the fee payable is as set out in section 2 of the Payment Annex.

“Public Law Proceedings” mean proceedings funded under sections 11.7, 11.8 or 11.9 of the Code Criteria.

Fee Scheme Definitions

10.9 In the table at paragraph 10.2 above

“s31 Care Proceedings” means proceedings or potential proceedings under section 31 of the Children Act 1989.

“Other Public Law” means any Public Law Work other than s31 Care Proceedings.

In the Payment Annex, fees for s31 Care Proceedings vary according to the identity of the party represented, the Court and the number of parties represented:-

“Child” applies where you represent the child who is the subject of the proceedings.

“Parent” applies where you represent the parent of such a child or a person who has parental responsibility for such a child.

“Joined Party” applies to all other clients in s31 care proceedings.

Under the Court heading “High” applies to cases proceedings in the High Court, Court of Protection, Court of Appeal or House of Lords; “Other” applies to cases proceeding in any other Court.

Where you represent more than one party in the proceedings only one Standard Fee may be claimed by you, but this will be the higher fee marked “2” or “2+” in the Payment Annex.

Payment for Family Help (Lower)

10.10 Family Help (Lower) may only be granted where all criteria at section 11.3 of the Funding Code are satisfied. In addition, in Public Law Work remuneration for Family Help (Lower) may only be claimed where the following conditions are satisfied:-

- (i) the Local Authority has given notice of potential s31 Care Proceedings, but no proceedings have yet been issued (application for an Emergency Protection Order does not count as issue of proceedings for this purpose);
- (ii) your client is a parent (as defined above);

- (iii) Your client requires advice and assistance with a view to avoiding the proceedings, or narrowing and resolving any issues with the Local Authority.

Escape Provisions for Family Help (Lower)

- 10.11 In determining whether the Standard Fee for Family Help (Lower) is payable in public law cases, only work carried out under Family Help (Lower) should be taken into account in deciding whether the exceptional case threshold is reached. Work carried out under Legal Help is ignored for this purpose.

For the purposes of calculating whether a case escapes from the Standard Fee, or for payment where a case has escaped, the relevant Hourly Rate for Legal Representation should be used.

Legal Representation Devolved Powers

- 10.12 Unless otherwise notified by us, you have the following devolved power:-

To grant Legal Representation for any client who is a party to s31 Care Proceedings. This devolved power must, of course, be exercised only when all relevant Funding Code Criteria and Eligibility Criteria are satisfied.

Exercise of this devolved power is optional. If you are in doubt either about whether the relevant merits criteria or means criteria are satisfied, you should submit an application for Legal Representation to the Regional Office or Special Cases Unit in the usual way. In any case where an income or capital contribution may be due from the client, you should submit the application to the Regional Office.

As with other devolved powers, where you grant Legal Representation you must notify the Regional Office within five working days of the decision to grant in accordance with Funding Code procedures Rule C17.

Reporting Obligations for Public Law Cases

- 10.13 Without prejudice to any other reporting obligations contained in this contract and in the Funding Code Procedures, where Legal Representation has been granted in any Public Law Proceedings, you must report to the Director as soon as any of the following circumstances arise:-

- Where the issues in the case have been identified and it has become clear that your client has no reasonable prospect of securing the outcome they seek in the case;
- Where the client no longer has a separate or sufficient interest in the proceedings to justify their representation;
- Where the client's interest in the proceedings is no longer sufficiently distinct from that of any other party to justify separate representation;
- Where the client has disengaged from the case or ceased to give instructions and 28 days have elapsed since you sought instructions from your client.

Reports under this Rule should be made using form CLS11. If you fail to report under this Rule promptly we reserve the right to reduce or disallow any costs which have thereby been unnecessarily incurred.

Remuneration for Incomplete Cases

- 10.14 In cases where a Standard Fee is payable in s.31 care proceedings, you may only claim the full Standard Fee if you were still providing Legal Representation for your client at the

conclusion of the proceedings. For this purpose the conclusion of the proceedings means Judgment or Final Order at first instance. If Legal Representation is withdrawn on any grounds prior to the conclusion of proceedings, you may claim 50% of the relevant Standard Fee.

Similarly if your client was joined into the proceedings more than six months after proceedings were issued, you may only claim 50% of the relevant Standard Fee.

Where you were representing more than one party to the proceedings but you cease to represent a party during the case (typically for conflict of interest reasons) you may claim only the full fee for representing one party in the case plus 50% of the difference between the fee for representing one party and the fee for representing more than one.

Where under this Rule you are only entitled to 50% of the Standard Fee you may escape from this fee if your Hourly Rate costs would be more than 100% of the normal Standard Fee.

Remuneration for Advocacy Services

- 10.15 Standard Fees for s31 Care Proceedings cover all work in the proceedings at first instance except for advocacy. Advocacy services are paid for separately from the Standard Fee. Where advocacy is provided by counsel, counsel will claim for such work under the CLS (Funding) (Counsel in Family Proceedings) Order 2001 ("the Graduated Fees Order"). Where you provide advocacy, you should claim for such work under Hourly Rates.

For the purpose of this Rule advocacy covers not just appearances as advocate before the Court, but any associated travel and waiting time on behalf of an advocate, together with any conferences provided by the advocate at Court. All work which would normally be included within Counsel's brief fee where advocacy was provided by Counsel, other than preparation prior to the hearing, may be claimed by you if you provide advocacy in public law cases.

For the avoidance of doubt, advocacy does not include attendance by you at Court with Counsel or with another advocate. Only one person may claim for advocacy services at any one hearing, unless provided for under the Graduated Fees Order.

Related Proceedings

- 10.16 Related Proceedings are proceedings which are being heard together with public law proceedings, or in which an order is being sought as an alternative to an order in such proceedings. An example is contact and residence proceedings which are being considered by the Court, together with care proceedings.

Related Proceedings count as Public Law Work for remuneration purposes. No separate fee may be claimed for Related Proceedings, but any work done in Related Proceedings may be taken into account for the purpose of determining whether the case escapes from the Standard Fee.

Final Appeals

- 10.17 Standard Fees for s31 Care Proceedings cover work done (other than advocacy) up to conclusion of the proceedings at first instance. This includes:
- Representation on any interim appeal
 - Any advice on the merits of an appeal against the final order.

Where Legal Representation is granted to bring or defend any appeal against the final order, this work will be paid by way of Hourly Rates.

Payment on Account for Legal Representation

- 10.18 Payments on account may be claimed for family work in accordance with Clause 17 of the Unified Contract Standard Terms. Payments on account relating to s31 Care Proceedings will be paid by reference to the Standard Fee unless we are satisfied by you that the case is likely to escape the Standard Fee. However, where you are providing advocacy services and are claiming payment on account by reference to the Standard Fee, an additional 25% of the relevant Standard Fee may be claimed on account, so that in total up to 100% of the Standard Fee may be claimed.

Part C - Private Law Fee Schemes

Scope of private law work

- 10.19 The remuneration rules governing Private Law Work apply to all work within the Family Category other than Public Law Work.

Legal Help Divorce Petition Only cases

- 10.20 The Payment Annex provides a higher standard fee for Legal Help for “Divorce Petition Only”. This fee may only be claimed where:

- (i) Your client requires advice and assistance in order to initiate and progress proceedings for divorce, judicial separation or the dissolution of a civil partnership, and
- (ii) Those proceedings are issued, and
- (iii) The matter is concluded and no other level of service is granted to your client for any Family Dispute related to those proceedings, and
- (iv) You are satisfied that, at the time the matter is concluded, it is unlikely that the client will require any further services related to those proceedings.

In all other cases the basic fee for “Legal Help” at table 3(a) of the Payment Annex applies. Note that, except for Domestic Violence Proceedings, there is no escape from the standard fee for Legal Help for Private Law Work.

Fee category definitions

- 10.21 In the table at paragraph 10.2 above and in the Payment Annex, private law categories have the following meanings:

“Domestic Violence Proceedings” means cases considered under section 11.10 of the Funding Code or services relating to a Family Dispute which, if it proceeded to Legal Representation, would be considered under that section of the Code.

“Private Law Children” means cases considered under either section 11.11 or 11.13 of the Code or services in relation to a Family Dispute which, if it proceeded to legal Representation, would be considered under either of those sections of the Code.

“TOLATA” means proceedings or potential proceedings under the Trusts of Land and Appointment of Trustees Act 1996. Note that for the purposes of remuneration for Family Help (Lower) TOLATA cases use the fees payable for “Finance” cases.

“Ancillary relief and all other private family” means all other Private Law Work not in any other category. In the Payment Annex such cases use the standard fees applicable to “Finance”.

Criteria for Family Help (Lower) – meaning of “serious family dispute”

- 10.22 You may only grant Family Help (Lower) where all relevant Funding Code criteria are satisfied, taking into account any guidance from those criteria in Volume 3 of the LSC Manual. Note in particular that Family Help (Lower) may not be granted for those family disputes:

- (i) Which do not require or involve more than one meeting with the client, whether or not followed up by written or telephone advice;

- (ii) Where the client's primary concern is with processing a divorce, judicial separation or dissolution of a civil partnership and any associated property or children disputes do not satisfy the criteria for Family Help (Lower);
- (iii) Where the dispute, if unresolved, would not lead to family proceedings;
- (iv) Where the primary issue is a change of name or advice about a will;
- (v) Where the client requires only general advice about the dispute and methods of dispute resolution, such as family mediation.

Cases with both finance and children issues

- 10.23 A client may be granted Family Help (Lower) for both children and finance issues and may claim a separate standard fee for each, but the Funding Code criteria must be considered and satisfied for each aspect separately. For example, if a client's divorce raises serious finance issues and also children issues but the child disputes are relatively minor and would not satisfy the cost benefit criterion for Family Help (Lower) then the client may be assisted generally under Legal Help (but this would involve only one matter start and one standard fee – see rule 10.33 below), but Family Help (Lower) should be granted for the finance issues only.

Escape from Family Help (Lower) Standard Fees

- 10.24 In determining whether you are entitled to claim Hourly Rates for Family Help (Lower) rather than the standard fee, you must take into account the time spent both under Family Help (Lower) and under Legal Help in relation to the same matter. In order to escape, your fees calculated on an Hourly Rate basis, must be at least three times the aggregate of the Legal Help Standard Fee and the Family Help (Lower) Standard Fee. If you are entitled to escape, hourly rates may then be claimed for both Legal Help work and Family Help (Lower) work.

The Hourly Rate payable under the Payment Annex for Legal Help should be used both for determining whether a case escapes and, if a case does escape, determining remuneration payable.

If you are providing Family Help (Lower) for both finance and children issues, you must divide any work carried out under Legal Help equally between the finance and children aspects of the case. Then for the purpose of calculating whether you escape from the relevant standard fee, you should treat the Standard Fee for Legal Help as divided equally between the children and finance. Therefore to escape in relation to finance work, Hourly Rate fees for your work done under Family Help (Lower) in relation to finance, together with such fees for half the work carried out under Legal Help, must exceed three times the total of the standard fee for Family Help (Lower) (finance) plus half the standard fee for Legal Help.

Court fees

- 10.25 Court fees are an allowable disbursement under Family Help (Lower) in Private Law Children cases and in other private law cases where fees are incurred only for the purpose of obtaining a consent order. In all cases, court fees may only be incurred where they are a reasonable and proportionate step which satisfies the private client cost benefit criterion (Code criterion 11.3.2).

Payments for Settled Cases

- 10.26 The Payment Annex provides for a higher standard fee for settled cases for certain Family Help fees. A "Settled" fee is payable instead of, not in addition to, any other fee for that level. You may only claim the higher "Settled" fee if the following conditions are satisfied:

- (i) That aspect of the case (i.e. children or finance) has been fully concluded under that level of service; and

- (ii) That aspect of the case does not proceed further to a new level of service, either with you or, so far as you are aware, another supplier. When a settlement is concluded you must wait for at least 21 days before claiming the higher Settled fee. The higher Settled fee may not be claimed if the settlement breaks down within that time.

Proceeding beyond Family Help (Lower)

- 10.27 Before applying for a certificate for Family Help (Higher) you must, subject to the exceptions given below, complete all work which could be carried out under Family Help (Lower).

In financial cases, the application for Family Help (Higher) should be made only when it becomes necessary to issue proceedings other than for the purpose of a consent order.

In private law children cases, the application for Family Help (Higher) should only be made where proceedings have been issued and the client has attended the first directions appointment to attempt to resolve the dispute through CAFCASS conciliation. However, if CAFCASS does not operate a conciliation service in the court where proceedings have been issued, you may apply for Family Help (Higher) as soon as proceedings have been issued.

In general you do not need to attend the conciliation appointment with your client. If you do attend, no separate fee is payable and, if costs are assessed on an Hourly Rates basis, the costs of attendance will not be allowed unless there are special circumstances such that you need to attend.

Graduated Fees in Family Help (Higher) Finance cases

- 10.28 Three alternative standard fees are available in Family Help (Higher) finance cases, identified as "Basic", "FDR settled" and "FDR not settled" in the Payment Annex. Only one of these fees may be claimed in any one case.

The Basic fee is payable for all cases where Family Help (Higher) is granted but the case does not proceed as far as the financial dispute resolution (FDR) hearing. This fee is also claimable if, for any reason, no FDR hearing takes place and a case proceeds straight to Legal Representation or to a final hearing.

The other fees are available only for cases where an effective FDR hearing takes place. An FDR hearing will only be treated as effective if your client was represented at court for the hearing. If the case settles at court or shortly after the FDR hearing, such that no application is made for Legal Representation, and the criteria for a Settled fee under paragraph 10.26 above are satisfied, the "FDR settled" fee is payable. In other cases which have proceeded to FDR, typically those which then go on to Legal Representation, the fee is "FDR not settled".

Escape from the Family Help (Higher) standard fee

- 10.29 In determining whether you escape from the Family Help (Higher) standard fee you should apply the Hourly Rates payable for Legal Representation. In determining whether you escape the fee in any case in which counsel has been instructed, you should calculate any counsel's fees which have not yet been paid as if they would be payable in accordance with the CLS (Funding) (Counsel in Family Proceedings) Order 2001, but for this purpose all Special Interest Payments, as defined in Article 9 of that Order, should be ignored.

Emergency Family Help

- 10.30 In some cases the client will need representation in the interests of justice as a matter of urgency before a stage has been reached in the case such that a grant of Emergency Legal Representation would be appropriate. For example, if you are first contacted by a client who has an imminent hearing pending which is not the final hearing, the appropriate level of service would be Family Help (Higher) rather than Legal

Representation. Unless we have told you otherwise, you have a devolved power to grant Family Help (Higher) in such cases. You must apply the same procedures and criteria when granting Family Help (Higher) as you would when granting Emergency Representation, with necessary modifications.

Proceeding beyond Family Help (higher)

- 10.31 You may only apply for Legal Representation when all work which could be completed under Family Help (Higher) has been completed. The material difference between the scope of Family Help and Legal Representation is that Family Help does not cover preparation for or representation at any final hearing. Therefore you may only apply for Legal Representation once any interim hearings have taken place and where the next step is to prepare for the final hearing. For this purpose, a final hearing is any hearing which the court has listed for the purpose of making a determination, either of the whole case or of any significant aspect of the case.

Payments on account for Family Help (Higher)

- 10.32 Any application for a payment on account for Family Help (Higher) must be based on the appropriate Standard Fee where any such fee is available, unless we are satisfied by you that the case is likely to escape the Standard Fee under paragraph 10.29 above.

Part D - Other Provisions

Separate Matter Types

- 10.33 It is in the nature of family cases for clients to have more than one family dispute at any given time. However, the family remuneration provisions, including standard fees, have been calculated on the basis of cases with more than one aspect. Therefore multiple cases and fees may not be claimed for a single client, except where specifically authorised in this specification.

You may never have more than one Legal Help matter start opened for a client in the family category. As with other categories of work (see paragraph 5.15), where a Legal Help matter start has been concluded in the family category you may not start a new matter start in the family category for that client unless;

- (i) There has been a material development or change in the client's instructions; and
- (ii) A period of at least six months have elapsed since you submitted your claim for that matter.

Where Legal Help has been provided, a grant of Family Help (Lower) or two grants of Family Help (Lower) in cases which have both children and finance aspects, do not count as a new Matter Start.

Similarly, where a client is in receipt of Family Help (Lower) they may not be granted Family Help (Lower) for the same aspect (i.e. children or finance) unless there has been a material development in the case and six months have elapsed since the you submitted your previous claim for Family Help (Lower). A client may never be in receipt of more than two grants of Family Help (Lower) at any time.

Use of Counsel under Family Help

- 10.34 Counsel may be instructed under either Legal Help or any form of Family Help but unless specifically authorised under this specification, you are responsible for agreeing counsel's fees and paying counsel. Counsel's fees do not count as a disbursement and may not be claimed in addition to the Standard Fee.

The only exceptions are Family Help (Higher) cases which escape the standard fee under paragraph 10.29 above. In such cases counsel may claim payment under the CLS (Funding) (Counsel in Family Proceedings) Order 2001 ("the Graduated Fees Order"), but only if:

- (i) at the time of instructing counsel you are satisfied that the costs already incurred, or which are likely to be incurred over the next 28 days, are sufficient to escape under paragraph 10.29; and
- (ii) you have given notice to counsel prior to instruction that his or her fees may be claimed under the Graduated Fees Order.

If you agree and pay counsel's fees under this paragraph and the case subsequently escapes from the Standard Fee you may, when claiming your fees on the basis of Hourly Rates, claim payment from us of counsel's fees as if such fees were a disbursement incurred by you.

In any case where you instruct counsel under Family Help and counsel's fees are not payable by us under the Graduated Fees Order, you must pay counsel within 28 days of receipt of counsel's fee note.

Family Graduated Fees

- 10.35 The following rules apply when you instruct counsel whose fees are payable under the Graduated Fees Order;

- (a) You must notify any counsel instructed in family proceedings, within fourteen days of:
 - (i) those proceedings being finally settled or otherwise concluded, and
 - (ii) receiving notice of final revocation or discharge of the relevant certificate (following any review by the Regional Director and Funding Review Committee), whichever is the sooner, that the proceedings have been settled or otherwise concluded, or as the case may be, that the certificate has been discharged or revoked.
- (b) Where so requested, you must provide counsel with written confirmation that they were instructed to carry out the work in question, together with such other information as counsel may reasonably request for the purpose of applying for payment under the Graduated Fees Order. You must comply by sending the requested confirmation or information within seven working days of :
 - (i) receipt by you of the request together with any necessary accompanying documentation (such as counsel's claim form) or
 - (ii) receipt by you of any other information or documentation reasonably necessary for you to provide the confirmation or information (e.g. documentation required to show that a payment point has been reached such as notice of discharge of a certificate),

whichever is the later.
- (c) You must include details (and attach confirmation) of all sums paid to counsel in the proceedings on any claim for costs you make on assessment or detailed assessment. Where counsel has carried out work in the proceedings to date that has not yet been paid, you must await the receipt of confirmation of payment before submitting your claim,
- (d) On any assessment of costs, if it appears to us or to the court on assessment that counsel has been instructed either:
 - (i) without any prior authority required under this contract and where the use of counsel was not justified: or
 - (ii) in any other circumstances where it was not necessary for counsel to be instructed

but counsel's fees are paid or payable under the Graduated Fees Scheme, your costs will be assessed as if counsel had not been instructed in the proceedings. Any sums paid or payable under the Graduated Fees Order shall be deducted from the amount so assessed when calculating your fees.
- (e) Where the total sums payable on assessment exceed any cost limitation imposed by the Commission under the relevant certificate or contract, the costs payable to you shall not exceed the amount payable in accordance with that costs limitation less such sums as are paid or payable to counsel under the Graduated Fees Order.
- (f) You must inform counsel whenever counsel's fees are reduced under Article 19 of the Graduated Fees Order and any reasons for that reduction, and provide counsel with such information as he or she requires in order to pursue any review or appeal against the assessment allowed under this contract or under the Order.

Applying for a Criminal Representation Order in Family Proceedings

10.36 If you are an SQM holder or Provisional SQM holder in the Family SQM category, then you may provide Representation under Section 14 of the Access to Justice Act 1999 in:

- (a) Enforcement proceedings in the magistrates' court arising out of the breach of an order of that court in family proceedings where there is a risk of imprisonment;
- (b) To a child who is the subject of proceedings for an Anti-Social Behaviour or Sex Offender Order and/or to the parent of any such child in relation to an Associated Parenting Order; or
- (c) To a parent in relation to a Parenting Order made on the conviction of a child where the parent cannot reasonably be represented by the child's solicitor;

Provided that is in the interests of justice to provide representation (see Schedule 3 to the Access to Justice Act 1999).

Payment for representation under this paragraph will be in accordance with the revised standard fee scheme in Part E, paragraphs 3.5.1-3 of the General Criminal Contract.

Representation under this paragraph is part of the Criminal Defence Service (even though provided for under this Contract) and may also be performed by those with a General Criminal Contract. You apply for a Representation Order by completing forms CDS14 and CDS15 and sending them to the magistrates' court which is dealing with the matter. Representation Orders in the magistrates' court are granted subject to the individual passing the means test in the CDS (Financial Eligibility) Regulations 2006.