

General Unified Contract

Civil Specification

Category of Law Specific Provisions, other than Family, Immigration and Mental Health

This is a draft of the proposed category specific provisions to have effect from October 2007 in the categories of Debt, Employment, Housing and Welfare Benefits. Note that no category specific provisions are proposed in the Personal Injury, Clinical Negligence, Consumer and General Contract, Education, Community Care, Actions Against the Police etc or Public Law categories.

13 Debt

Applying for a Representation Order in certain Debt Proceedings

- 13.1 (a) If you are a SQM holder or Provisional SQM holder in the Debt Category of Law you may provide Representation under Section 14 of the Access to Justice Act 1999 in civil proceedings in the magistrates' court arising out of a breach of a financial order of that court where there is a risk of imprisonment and it is in the interests of justice to provide representation.
- (b) Payment for representation under this paragraph will be in accordance with the standard fee or revised standard fee scheme according to the provisions set out in Part E, paragraphs 3.5 of the General Criminal Contract
- (c) 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 that 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 in addition to the interests of justice test.
- (d) Representation under this paragraph will constitute a separate Matter Start and should be reported to us using Matter Type DMCA providing details of your time and disbursements incurred.

Matter Start boundaries

- 13.2 Each individual debt does not, of itself, justify use of a separate Matter Start. Only where separate proceedings have been issued against the Client in respect of different debts will separate applications for Legal Help in respect of each set of proceedings be justified.

14 Employment

Matter Start boundaries

- 14.1 Where one set of circumstances give rise to a number of statutory claims (for example, unfair dismissal, sex discrimination, deduction from wages) and contractual claims (for example, wrongful dismissal) these should all be treated as one Matter Start under Legal Help.

15 Housing

Expert reports in housing disrepair cases

- 15.1 In a disrepair case you should not instruct an expert to prepare a report outside the procedures of the pre-action disrepair protocol (as set out in the Civil Procedure Rules) unless:
- a) the report is required urgently to seek an injunction or because repairs are about to be carried out and evidence of the disrepair is required (and photographs taken by your client will not be sufficient evidence); or
 - b) it appears the condition of the property may constitute a statutory nuisance, the landlord has been given notice of the condition and a request for remedial works within a reasonable period of time and that time period has elapsed and the landlord has not made arrangements to take appropriate action.

Pre-action protocols

- 15.2 Provided the Funding Code Criteria (in particular those at section 10.4) are satisfied you may apply for Legal Representation to conduct the pre-action disrepair protocol.

Applying for a Representation Order or Advocacy Assistance in cases involving Anti-Social Behaviour Orders

- 15.3
- (a) If you are a SQM holder or Provisional SQM holder in the Housing Category of Law you may provide Representation under Section 14 of the Access to Justice Act 1999 in proceedings in the magistrates' court for an Anti-Social Behaviour Order sought by a registered social landlord against a tenant or a person living with him or her, or (by way of Advocacy Assistance) in any appeal against such an order to the Crown Court.
 - (b) Payment for representation under this paragraph will be in accordance with the standard fee or revised standard fee scheme according to the provisions set out in Part E, paragraphs 3.5 of the General Criminal Contract.
 - (c) 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 court that is dealing with the matter. Representation Orders are granted subject to the individual passing any relevant means test in the CDS (Financial Eligibility) Regulations 2006 in addition to the interests of justice test.
 - (d) Representation under this paragraph will constitute a separate Matter Start and should be reported to us using Matter Type HANT providing details of your time and disbursements incurred.

Matter Start Boundaries

- 15.4 A single Matter Start should encompass investigation, where appropriate, of both civil remedies and possible proceedings in the magistrates' court under the Environmental Protection Act 1990. A second Matter Start should be commenced only where you reach justifiable decisions both to pursue proceedings under the Environmental Protection Act and to assist the client with civil proceedings under Legal Help because the case appears likely to be allocated to the small claims track.

- 15.5 Legal help given in relation to homelessness must be provided on a specific legal issue or issues and should not cover practical matters for which the local authority is obliged to provide assistance.
- 15.6 The course of a homelessness application from any initial advice on the application through any review under section 202 Housing Act 1996 to consideration of an appeal under s204 or advice on suitability of accommodation offered, including advice and assistance in relation to any interim remedy, should be covered by a single Matter.
- 15.7 Legal Help in relation to concurrent applications to the local authority under Part VI and Part VII of the Housing Act 1996 should be provided under a single Matter Start. Separate Matter Starts will only be justified where substantially different issues arise in the two applications (see Paragraph 5.9).

Housing Possession Duty Scheme

- 15.8 If you are authorised by us to provide Legal Help and Help at Court as part of a Housing Possession Duty Scheme you must carry out all such work in accordance with the Housing Possession Court Duty Scheme Office Schedule and Guidance. The Standard Fees payable for such work are set out at section 6 of the Payment Annex.

16 Welfare Benefits

Scope of Welfare Benefits Legal Help

- 16.1 A welfare benefits check may only be provided under Legal Help if you identify it as being necessary from the presenting problem and it is required in order to aid resolution of the problem which has been identified.
- 16.2 You must not open a Matter Start where the matter could have been easily dealt with by the client, such as by an enquiry to the relevant benefits authority.
- 16.3 Legal Help should not be used to assist the client in completing forms unless an issue of law arises and it is important that the form is completed in the appropriate legal terms.
- 16.4 You cannot attend an interview under caution under this Category. Such work can only be carried out under the Crime Category

Representation

- 16.5 You cannot represent your Client at the Social Security Appeal Tribunal or before the Commissioners under this Contract. In very exceptional circumstances you could justify attending as a McKenzie Adviser. Matters where your attendance as a McKenzie Adviser leads to your claiming as an Exceptional Case will be monitored.

Separate Matters and Category Boundaries

- 16.6 Advice on a welfare benefit review and appeal constitutes the same matter as previous advice in relation to the relevant benefit (see Paragraph 5.18 (b)).
- 16.7 Separate Matter Starts in relation to problems with different benefits will be justified only where the conditions in both Paragraphs 5.8 and 5.9 are satisfied.