

Unified Contract

Civil Specification

Category of Law Specific Provisions:

- **Section 13 – Debt**
- **Section 14 – Employment**
- **Section 15 – Housing**
- **Section 16 – Welfare Benefits**

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 Magistrate's Standard Fee scheme 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. Advice and assistance on a Client's overall debt management and negotiations with different creditors are generally expected to fall within a single Matter Start. Separate Matter Starts will generally be justified where:

- (a) More than one debt is disputed on separate, substantive grounds;

- (b) Proceedings have been issued in respect of more than one debt (for the avoidance of doubt, an application for a liability notice in respect of council tax arrears will constitute the issue of proceedings); or
- (c) The Client faces separate enforcement of more than one debt, whether or not arising from a judgement in civil courts.

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 Magistrate's Standard Fee scheme 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.

Homelessness Cases

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 such as identifying accommodation agencies or making a referral to them.

15.6 The general rule is that all steps within the course of a homelessness application should be dealt with under a single Matter Start. This is subject to the detailed provisions below:

- (a) A potential interim application for judicial review, such as in relation to the failure of the local authority to accept an application, make enquiries, provide interim accommodation or notify a decision, will not justify a separate Matter Start. However, where both:
 - (i) the prospects of success of the proposed challenge appear to satisfy Funding Code Criteria 7.4.5 or would justify seeking counsel's opinion under Funding Code Criteria 5.6.4; and
 - (ii) it is justifiable to dispense with the pre-action protocol for judicial review (e.g. because the Client is street homeless or otherwise in imminent danger)

then the work relating to the proposed judicial review may be carried out under an emergency grant of Legal Representation.

- (b) Where following a request for a review under section 202 Housing Act 1996 ('the Housing Act'), the local authority remits the decision for further consideration or investigation, Legal Help pending the further decision should be provided under the existing Matter Start.
- (c) Where following a request for review under section 202 of the Housing Act the local authority reaches a decision that confirms the original decision on any issue against the interests of your Client or confirms a previous decision in relation to a referral of your Client to another authority, or fails to notify a decision within the period required by regulations under section 203(7) of the Housing Act:
 - (i) A new Matter Start would not be justified in relation to an appeal under section 204 of the Housing Act. If the prospects of success of such an appeal appear to satisfy Funding Code Criteria 7.4.5, or justify obtaining counsel's opinion under Funding Code Criteria 5.6.4, you may pursue or grant an immediate emergency grant of emergency Legal Representation.
 - (ii) A separate Matter Start would not be justified in relation to an appeal or potential appeal under section 204A of the Housing Act in relation to interim accommodation.
 - (iii) If, following the issue of an appeal under section 204 of the Housing Act the decision is subsequently remitted for reconsideration by the local authority by order or agreement, a new Matter Start may, subject to sub-paragraph (v), be justified to provide further Legal Help.
 - (vi) Where on appeal under section 204 of the Housing Act the decision of a local authority is varied by order or agreement, Legal Help required in relation to enforcement of any duty arising from the new decision may be provided under a new Matter Start.
 - (v) A new Matter Start will not be justified where an appeal issued pursuant to section 204(1)(b) is compromised on the basis that the local authority completes its review and notifies its review decision.
- (d) Subject to the sufficient benefit test, a new Matter Start may be opened to assist the Client in requesting a review, under section 202(f) of the Housing Act, of accommodation offered by a local authority, but not to provide general advice as to the risks of refusing an offer of accommodation or the Client's rights in relation to requesting a review of such an offer.
- (e) Any issues relating to compliance by a local authority with any duty arising from its decision under section 184 or section 202 of the Housing Act should be addressed under the existing Matter Start. However, where the matter is reasonably closed on the basis that it appears that the local authority is complying or has stated how it will

comply with such duty or duties, and subsequently further significant legal work is justified as a result of the authority's persistent failure to do so, further Legal Help may be carried out under a new Matter Start.

15.7 Where justified under the provisions of the general provisions at Paragraphs 5.6 to 5.22, and subject to the sufficient benefit test, a separate Matter Start may be opened in relation to the protection of the Client's property under sections 211 and 212 of the Housing Act.

15.8 For the avoidance of doubt:

- (a) Legal Help relating to the terms and conditions (in particular alleged rent arrears) of the Client's occupation of accommodation provided under Part VII of the Act should not be carried out under Matter Starts relating to the Client's homelessness application, other than where this work concerns questions under the Housing Act of the suitability of such accommodation or otherwise to the discharge of an interim duty of the local authority;
- (b) Legal Help in relation to a decision by a local authority that its duty towards the Client has been discharged under section 193(6) or 195 (4) of the Housing Act, and/or any subsequent fresh homelessness application, may be provided under a new Matter Start.

15.9 A separate Matter Start should not be opened simply to confirm that your Client wishes to apply for accommodation under Part VI of the Act at the same time as pursuing his or her homelessness application. Separate Matter Starts for concurrent applications under Part VI and Part VII of the Act will only be justified where substantially different issues arise in the two applications (see Paragraphs 5.6 –5.22) and there is sufficient benefit to the Client in carrying out work concurrently in respect of both applications.

Hourly rates in homelessness and possession cases

15.10 Where a matter involves Legal Help to a client who is a defendant to possession proceedings or assistance in connection with a review of a local authority's decision under section 202 of the Housing Act 1996, the appropriate Hourly Rates for the purposes of calculating whether the Claim meets the Criteria for an Exceptional Case and for reporting and payment of the Claim are set out at Table 7(c) of the Payment Annex.

Housing Possession Duty Scheme

15.11 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 that 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, for example certain sections of the application form for Disability Living Allowance.
- 16.4 You cannot attend an interview under caution under this Category. Such work can only be carried out under the General Criminal Contract.

Representation

- 16.5 You cannot represent your Client at an appeal tribunal or before 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

Reviews and Appeals

- 16.6 Legal Help on a welfare benefit review and any request for a revision or supersession or appeal constitutes the same matter as previous advice in relation to the relevant benefit (see Paragraph 5.8 (b)).

Different Benefits

- 16.7 Separate Matter Starts in relation to problems with different benefits will be justified only where the conditions in Paragraphs 5.6 to 5.22 of the general provisions are satisfied.