

## 2010 Standard Civil Contract - Specification

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## Debt

### *Supervisors' Legal Competence Standard*

- 10.1 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in any 4 (out of the 6) Debt case categories in Table One below:

<b>Table One</b>		
	<b>Debt case category</b>	<b>Minimum number of case files required</b>
1	Mortgage Arrears/Possession	1 case file
2	Rent Arrears/Possession	1 case file
3	Council Tax	1 case file
4	Utility Debts (Gas/Electricity/Water)	1 case file
5	<ul style="list-style-type: none"> <li>• Tax/NI/VAT</li> <li>• Fines</li> <li>• CS/Maintenance</li> </ul>	3 case files from any in the list
6	Other Debts: <ul style="list-style-type: none"> <li>• Secured loans</li> <li>• Charge cards</li> <li>• Credit cards (bank and store)</li> <li>• Overdrafts</li> <li>• Social fund loans</li> <li>• Hire purchase</li> <li>• Unsecured loans</li> <li>• Credit sales</li> <li>• Mail order/catalogue</li> <li>• Rental/Hire agreements</li> <li>• Guarantors</li> </ul>	8 case files from any in the list

- 10.2 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in each of the 8 case types in Table Two below:

<b>Table Two</b>		
	<b>Debt case type</b>	<b>Minimum number of case files required</b>
1	Case which required the explaining (or explaining and taking) of bankruptcy proceedings to a client (including advantages, disadvantages and court procedures such as venue and timescale)	1 case file
2	Case which required the explaining of Benefit Entitlement	1 case file
3	Case which required the explaining of Tax Allowances	1 case file
4	Case which required the explaining of other ways of maximising income (e.g. room rental, charity)	1 case file
5	Case which required the explaining of different court procedures to clients (e.g. time orders, variations, charging orders,	3 case files

	suspensions, setting asides, appeals)	
6	Case which required a referral to further progress a case	1 case file
7	Case which required the explaining of different Consumer Credit Act issues to a client (e.g. enforceability, extortionate rates, misrepresentation)	1 case file
8	Case which required the explaining of liability for a debt (e.g. Limitation Act, acknowledgement, minor debtor, catalogues)	1 case file

- 10.3 The Supervisor must maintain a portfolio (including case name and reference) of cases to demonstrate compliance with Paragraphs 10.1 and 10.2. The same case file can be used to demonstrate compliance with Paragraphs 10.1 and 10.2.
- 10.4 Prior to the appointment as Debt Category Supervisor the individual must have demonstrated to our satisfaction a portfolio of cases which meet the requirement in Paragraphs 10.1 and 10.2.
- 10.5 The Supervisor must take account of any changes in legislation and case law and maintain access for the duration of the Contract to the following required texts:
- Subscription to at least 2 nationally published specialist journals (containing updates on debt case law and statutes);
  - Access to current edition of CPAG Debt Handbook;
  - Current copy of the Civil Procedure Rules and Practice Directions;
  - Access to current Welfare Benefits Handbook.

*Applying for a Criminal Representation Order in certain Debt Proceedings*

- 10.6 (a) If you have Schedule Authorisation for Debt under this Contract, then you may also 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 provided that is in the interests of justice to provide representation (see Schedule 3 to the Access to Justice Act 1999).
- (b) Payment for representation under paragraph 10.6(a) will be in accordance with the relevant Standard Fee scheme applicable too such cases under the 2010 Standard Crime 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 Contract for CDS services. You may 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.

## *Matter Start Rules*

10.7 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 legal 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 legal enforcement action of more than one debt, whether or not arising from a judgement in civil courts.

## *Approved Debt Intermediaries*

10.8 All Debt Providers will be required, within six months of the Contract Start Date, to employ the services of an Approved Intermediary (as defined by the Tribunals, Courts and Enforcement Act 2007) who is able to negotiate Debt Relief Orders (as defined by the Tribunals, Courts and Enforcement Act 2007). The Approved Intermediary need not be a Supervisor.

## **Employment**

### *Supervisors' Legal Competence Standard*

10.9 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in any 3 (out of the 5) Employment case categories in Table One below:

	<b>Employment case category</b>	<b>Minimum number of case files required</b>
1	Unfair Dismissal: <ul style="list-style-type: none"><li>• Conduct</li><li>• Ill health</li><li>• Unfair redundancy</li><li>• Capability</li><li>• Other substantial reason</li><li>• Automatically unfair dismissal</li><li>• Wrongful dismissal</li></ul>	5 case files from any in the list
2	Constructive Unfair Dismissal	1 case file
3	Redundancy (fair)	1 case file
4	Discrimination: <ul style="list-style-type: none"><li>• Race</li><li>• Sex</li><li>• Disability</li><li>• Equal pay</li></ul>	3 case files from any in the list

	<ul style="list-style-type: none"> <li>• Sexual orientation</li> <li>• Religion or belief</li> <li>• Age</li> </ul>	
5	Rights in Work: Statutory and Contractual <ul style="list-style-type: none"> <li>• Maternity and parental Rights</li> <li>• Wages</li> <li>• Trade unions</li> <li>• Contract</li> <li>• Working time</li> <li>• Transfer of Undertakings</li> <li>• Redundancy</li> </ul>	5 case files from any in the list

10.10 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in each of the 6 case types in Table Two below:

<b>Table Two</b>		
	<b>Employment case type</b>	<b>Minimum number of case files required</b>
1	Case which required representation at full hearings in either Unfair Dismissal or Discrimination	1 case file
2	Case which required advising the client about the merits of a review/appeal or EAT or a review of an ET decision	1 case file
3	Case which required the consideration of procedural points (e.g. application for discovery, representation at a preliminary hearing, request for further and better particulars or written answers to questions)	1 case file
4	Case which required a complex calculation of net loss (including contractual benefits and impact of benefit recoupment)	1 case file
5	Case which required the consideration of European case law	1 case files
6	Case which required advising the client about enforcing an award	1 case file

10.11 The Supervisor must maintain a portfolio (including case name and reference) of cases to demonstrate compliance with Paragraphs 10.9 and 10.10. The same case file can be used to demonstrate compliance with Paragraphs 10.9 and 10.10.

10.12 Prior to the appointment as Employment Category Supervisor the individual must have demonstrated to our satisfaction a portfolio of cases which meet the requirement in Paragraphs 10.9 and 10.10.

10.13 The Supervisor must take account of any changes in legislation and case law and maintain access for the duration of the Contract to the following required texts:

- Subscription to at least 1 nationally published specialist journal;

- Subscription to at least 1 updated employment encyclopaedia (could be CD-ROM/online)
- Demonstrated access to specialist employment law reports (either by subscription or by membership and use of a law library).

### *Matter Start Rules*

10.14 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.

## **Housing**

### *Supervisors' Legal Competence Standard*

10.15 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in the Housing case categories in Table One below:

<b>Table One</b>		
	<b>Housing case category</b>	<b>Minimum number of case files required</b>
1	<ul style="list-style-type: none"> <li>• Private Disrepair</li> <li>• Public Disrepair</li> <li>• EPA – statutory nuisance</li> </ul>	3 case files from any in the list
2	<ul style="list-style-type: none"> <li>• Homelessness (including Part 7 Housing Act 1996 and Community Care legislation)</li> <li>• Allocation (including transfers and mutual exchanges)</li> </ul>	3 case files from any in the list
3	Security of Tenure: <ul style="list-style-type: none"> <li>• Public/HA (including succession/assignment)</li> <li>• Private, where the status is unclear or can be challenged</li> </ul>	3 case files from any in the list
4	Possession/Repossession: <ul style="list-style-type: none"> <li>• Rent Arrears</li> <li>• Mortgage Arrears</li> <li>• Other Possession (including nuisance, returning owner etc.)</li> </ul>	3 case files from any in the list
5	Housing Benefit	3 case files, which include significant Housing Benefit advice

10.16 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in each of the 3 case types in Table Two below:

<b>Table Two</b>		
	<b>Housing case type</b>	<b>Minimum number of case files required</b>
1	Case which required representation (at Appeals Tribunals, Review Boards or in Court)	<ul style="list-style-type: none"> <li>• 3 examples in Possession cases, and</li> <li>• 1 example in a Housing Benefit case</li> </ul> or <ul style="list-style-type: none"> <li>• 1 example of a Homelessness case</li> </ul> or <ul style="list-style-type: none"> <li>• 1 example of a housing disrepair case</li> </ul>
2	Case which required Referral or Representation (in addition to that above)	<ul style="list-style-type: none"> <li>• 1 example in a Possession case and</li> <li>• 2 examples of Homelessness cases or Housing Disrepair cases</li> </ul>
3	Case which required the ability to recognise the possibility of judicial review proceedings (including the purpose and the client's role (and, for non-solicitor agencies, if the decision is taken to progress the case, the need for referral to a solicitor))	1 case file

- 10.17 The Supervisor must maintain a portfolio (including case name and reference) of cases to demonstrate compliance with Paragraphs 10.15 and 10.16. The same case file can be used to demonstrate compliance with Paragraphs 10.15 and 10.16.
- 10.18 Prior to the appointment as Housing Category Supervisor the individual must have demonstrated to our satisfaction a portfolio of cases which meet the requirement in Paragraphs 10.15 and 10.16.
- 10.19 Where a supervisor has not conducted representation in a Disrepair case in the past 12 months they must demonstrate how they have maintained their knowledge of Housing Disrepair litigation.
- 10.20 The Supervisor must take account of any changes in legislation and case law and maintain access for the duration of the Contract to the following required texts:
- Subscription to 1 nationally published specialist journal (containing updates on housing case law and statutes);
  - Subscription to at least 1 (updated) housing encyclopaedia e.g. <http://england.shelter.org.uk>;
  - Demonstrated access to specialist housing law reports (e.g. by subscription or membership and use of local law library);
  - Current copy of the Civil Procedure Rules and supplements.

### *Expert reports in housing disrepair cases*

10.21 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*

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

### *Applying for a Criminal Representation Order in cases involving Anti-Social Behaviour Orders*

- 10.23 (a) If you have Schedule Authorisation for Housing under this Contract, then you may also 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 provided that is in the interests of justice to provide representation (see Schedule 3 to the Access to Justice Act 1999).
- (b) Payment for representation under paragraph 10.23(a) will be in accordance with the relevant Standard Fee scheme applicable to such cases under the 2010 Standard Crime 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 Contract for CDS services. You may 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.

### *Matter Start Rules*

10.24 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*

10.25 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.

10.26 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 a grant of Emergency 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.

10.27 Where justified under the provisions of the general provisions at Paragraphs 3.40 to 3.60, 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.

10.28 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.

10.29 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 3.40 to 3.60) 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*

10.30 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 Court Duty Scheme**

10.31 You may participate in the Housing Possession Court Duty Scheme only if you are authorised to do so under an Exclusive Schedule (see Paragraphs 1.40 to 1.41). Unless otherwise stated, in Paragraphs 10.32 to 10.70:

- (a) References to a Schedule (other than a "main" Schedule) refer to your Exclusive Schedule for the Housing Possession Court Duty Scheme;
- (b) "The Scheme" means the Housing Possession Court Duty Scheme operating under this Contract; and
- (c) "The Service" means services you provide as part of the Scheme, as more specifically described at Paragraphs 10.33 and 10.54 to 10.55 below.

#### *The Schedule*

10.32 All work carried out under the Scheme is subject to any conditions or restrictions set out in that Schedule. You may only provide services under the Scheme during the period specified in your Schedule. When your Schedule comes to an end we will normally hold a competitive bid round to allocate further Schedules under the Scheme.

#### *The Service*

10.33 The Service involves the provision at a court of Legal Help and Help at Court to Clients and for cases described at Paragraphs 10.52 to 10.55 below. Subject to the terms of your Schedule, work covered by the Scheme may not be claimed for under any other part of this Contract.

#### *Payment*

10.34 The Housing Possession Court Duty Scheme is Controlled Work. The payment provisions for all work under the Scheme (save for any management fee payable under Paragraph 10.51) are specified at Section 6 of the Payment Annex.

10.35 Payment will be monthly in arrears for work done. Payments will be made separately from your Standard Monthly Payments for other Controlled Work under Paragraphs 4.28 to 4.30. Periodically we will reconcile your Claims and payments. If, in any Housing Possession Court Duty Scheme session, you have performed no work for Clients we will pay you on the basis that you have

seen one Client during the session and you are entitled to payment on that basis.

- 10.36 For the purpose of the Scheme, “session” means either a morning or afternoon period when the court is in session. Consequently, a court can list a maximum of two sessions per day e.g. 10am – 12 noon and 2pm – 4pm. However, there must be a clear break between sessions listed on the same day for two payments to be claimed. Where the court lists a full day session e.g. from 10am – 4pm without a clear break, you will only be entitled to claim one payment for this full day session.
- 10.37 The rate referred to in Section 6 of the Payment Annex is payable per Client and covers all work for a Client under the Scheme (including e.g. advice, representation, advice in writing) so that no additional payments will be made. There are no additional payments for travel or waiting.
- 10.38 You must comply with the requirements to provide information about the Scheme by the specified times and your entitlement to receive payment is conditional on your doing so.

#### *Matter Start Rules*

- 10.39 If you provide the Service at Court and, within six months of doing so, subsequently open a new Housing Matter Start in relation to the same case then you cannot claim any payment for providing the Service at Court. The costs of providing the Service will be included in the Housing Matter Start Fixed Fee.
- 10.40 The rule at Paragraph 10.39 above does not apply if you subsequently open a non-Housing Matter Start after providing the service at Court. The Matter Start Rules set out in Section 3 of this Specification will apply in these circumstances.

#### *Reporting*

- 10.41 You must report data about the Service to us in such form as we may specify. Monthly monitoring reports showing details of Clients assisted must be completed fully and returned to us by you within 10 days after the end of each month. Payments are triggered by our receipt of fully completed monthly monitoring reports on or before their respective due date. If you fail to provide any report to us by its due date, your payment will be delayed until after we have received it.

#### *Volumes of Work*

- 10.42 We will allocate a volume of acts of assistance to each Scheme for the year (or such other period as is specified in your Schedule). Schemes will be able to provide 10% more acts of assistance than their allocated volume without prior authorisation from us. If Schemes wish to provide acts of assistance above this level then our prior written approval is required. Provision of the Service does not allow or require you to use up Housing Matter Starts issued to you for services not covered by the Scheme.

### *Management*

- 10.43 You must have a Housing Supervisor at all times you are delivering the Service.
- 10.44 You must nominate a member of your personnel who is responsible for the overall supervision and management of the Service and provide us with their name. This person must meet the Housing Supervisor Standard.
- 10.45 The nominated member of your personnel must liaise with the court to ensure that the Scheme is in place each time the court lists possession proceedings.
- 10.46 You must demonstrate that the Scheme has effective induction, training, appraisal and supervision procedures for all Caseworkers.
- 10.47 You must ensure that you have appropriate adviser(s) present on each day at the court when the Service is required.
- 10.48 For the purposes of paragraph 10.47 above “appropriate adviser” means a Caseworker who conducts a minimum of 12 hours casework per week.
- 10.49 You must include your Housing Possession Court Duty Scheme files in any file review process you conduct.

### *Delegation of the Service*

- 10.50 Without prejudice to your management obligations at Paragraphs 10.43 to 10.49 above, you may delegate provision of the Service to other Providers who will act as your Agents for the purposes of the Scheme. Any such delegation must be authorised under your Schedule. Unless otherwise provided in your Schedule, we will make payments to you for all work covered by the Schedule and you will be responsible for any payments agreed between you and the Agents.
- 10.51 Where you provide the Service in this way and manage the provision of the Service by your Agents, a management fee may also be payable to you in the circumstances specified in your Schedule.

### *Who can use the Scheme?*

- 10.52 The Scheme is available to any person (regardless of means) whose home is at immediate risk because of possession proceedings. You must provide the Service to any such person (the Client) who requires it during one of the specified court sessions. The Client does not pay anything for the Service. If a Client has received the Service and wishes to use it again you may provide it to them if they are in genuine need of it and it is appropriate to do so.
- 10.53 You must provide the Service to all Clients who request to see an adviser under the Scheme.

### *Scope of the Scheme*

- 10.54 The Scheme covers the following types of proceedings at the Court set out in your Schedule.

- Private rented possession proceedings;
- Public/Registered Social Landlord rented possession proceedings;
- Mortgage possession proceedings;
- Applications to stay/suspend execution of warrants of possession; and
- Clients with charging orders relating to property – whereby the Client is at immediate risk of losing their home through a forced sale (i.e. not when the charging order is put in place).

10.55 For Clients within the scope of the Scheme (see Paragraphs 10.52 to 10.54) you must provide the following services:

- Face to face advice to the Client on the day, prior to the hearing;
- Advocacy for the relevant proceedings on the day of the hearing;
- Face to face advice to the Client on the day, post the hearing, explaining the outcome and the options available to the Client;
- On the day of the hearing, assisting Clients to liaise with 3<sup>rd</sup> parties, for example negotiating payments with landlords or lenders or assisting Clients with payment plans if appropriate in the circumstances;
- Referrals to other Providers to take on follow up work where you are unable to take on this work under your Contract or to other organisations where the Client may not be eligible for legal aid;
- Send a letter to each Client setting out your advice.

#### *Clients requesting advice outside the terms of the Scheme*

10.56 Where a Client seeks your advice outside of the terms of the Housing Possession Court Duty Scheme, then, subject to any means or merits tests you should (if you are permitted by your Contract) consider whether it is appropriate in the circumstances to commence Legal Help, Help at Court or Licensed Work. You will be entitled to payment for assisting that Client in accordance with your Contract but you will not be entitled to claim any fee under the Housing Possession Court Duty Scheme.

10.57 Further to paragraph 10.55 above, when considering whether it is appropriate in the circumstances, you should take account of the Client's location and whether it is feasible to deliver face-to-face advice from your Office or whether it is more appropriate to refer the Client to a Provider located nearer the Client.

10.58 If the Client needs further services but you are not able to provide them yourself under your Contract, you must (if it is practicable to do so) refer the client to an organisation that will be able to provide them or to Community Legal Advice. If the Client is likely to be financially eligible this should be an organisation holding a Contract.

#### *Emergency Representation*

10.59 In exceptional cases it may be appropriate for you to grant Emergency Representation to a Client who has contacted you under the Scheme. The fact that advocacy under the Scheme is available is not automatically a ground for refusing Emergency Representation where it would otherwise be justified but is a relevant consideration for the purposes of Code Criterion 5.4.4 (other Levels of Service available).

10.60 Any grant of Emergency Representation by you must be made in accordance with the Funding Code and Section 5 of the Specification and does not fall within the Housing Possession Court Duty Scheme.

### *Reporting and Auditing*

10.61 You must make a record of the Service that you give to each Client (or why you refused to provide the Service).

10.62 In addition to the requirements to keep records under Clause 8 of the Standard Terms, you must keep a central record (in such form as we may specify) of Clients seen under the Scheme.

10.63 Although the Service is available to any person (regardless of means) whose home is at immediate risk because of possession proceedings, we need to know how many clients would be financially eligible for the Scheme if there were a means test. Therefore, you must ensure that, for each client, our means assessment questionnaire is completed.

10.64 You must report to us such data (in such form as we may reasonably specify) about the Scheme at such intervals (not more often than monthly) as we may require.

### *Flexibility*

10.65 Your obligation is to provide a Scheme at the Court listed in your Schedule. You must provide Services at all sessions the Court runs and therefore you must have the flexibility to cater for the fluctuations in demand for the Services.

10.66 If you are unable to provide Services at a court session you must inform your Relationship Manager immediately.

### *Providing services at a Court where the Scheme is not in place*

10.67 As an exception to Paragraph 2.57 (services normally to be delivered from your Office) you are permitted to sign Legal Help forms at Court and provide the services detailed in Paragraph 10.55 above in the proceedings set out in Paragraph 10.54 above, but only when:

- the appropriate Regional Office has provided a written authorisation (in your main Schedule or otherwise) under this Paragraph to do so ; and
- there is no current Scheme operating at that Court.

10.68 Client eligibility for the Scheme under this section is equivalent to that defined in Paragraph 10.52 above and unless otherwise stated the rules of the Scheme as set out at Paragraphs 10.33 to 10.66 above are applicable. For the avoidance of doubt Clients who do not meet our usual eligibility criteria may only have services provided as detailed at Paragraph 10.55.

10.69 Where you provide services under paragraph 10.67 you may claim only the fixed fee specified for the Scheme under section 6 of the Payment Annex. You may not claim the normal Legal Help Housing Standard Fee (but Paragraph 10.39 will still apply). No payment will be made for sessions where you see no Clients and no management fee will be paid.

10.70 We will allocate housing possession Matter Starts to you specifically for any services authorised under Paragraph 10.67. These will be set out in your main Schedule. Reporting, reconciliation and payment mechanisms for such work will be in accordance with Section 4 of this Specification.

## Welfare Benefits

### *Supervisors' Legal Competence Standard*

10.71 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in any 7 (out of the 10) Welfare Benefits case categories in Table One below:

<b>Table One</b>		
	<b>Welfare Benefits case category</b>	<b>Minimum number of case files required</b>
1	Employment Support Assistance (formerly Incapacity Benefit)	1 case file
2	Disability Living Allowance	1 case file
3	Preparing for a Review or Appeal	1 case file
4	Overpayments/Fraud	1 case file
5	Means tested – Local Authority	1 case file
6	Means Tested – DWP	1 case file
7	Benefits for the unemployed	1 case file
8	Tax Credits	1 case file
9	Pensions (including retirement and bereavement benefits)	1 case file
10	Social Fund	1 case file

10.72 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in each of the 5 case types in Table Two below:

<b>Table Two</b>		
	<b>Welfare Benefits case type</b>	<b>Minimum number of case files required</b>
1	Case which required representation (at Appeals Tribunals, Review Boards or in Court)	2 case files
2	Appeal to Commissioners	1 case file
3	Case which required the ability to recognise the possibility of judicial review proceedings (including the purpose and the client's role (and, for non-solicitor agencies, if the decision is taken to progress the case, the need for referral to a solicitor))	1 case file
4	Case which required referral to further progress the case	2 case files
5	Case which demonstrated a complex better-off calculation (showing an awareness of the income of the individual, and where more than one alternative benefit is considered)	1 case file

- 10.73 The Supervisor must maintain a portfolio (including case name and reference) of cases to demonstrate compliance with Paragraphs 10.71 to 10.72. The same case file can be used to demonstrate compliance with Paragraphs 10.71 and 10.72.
- 10.74 Prior to the appointment as Welfare Benefits Category Supervisor the individual must have demonstrated to our satisfaction a portfolio of cases which meet the requirement in Paragraphs 10.71 and 10.72.
- 10.75 The Supervisor must take account of any changes in legislation and case law and maintain access for the duration of the Contract to the following required texts:
- CPAG's Welfare Benefits & Tax Credits Handbook;
  - Disability Rights Handbook (Disability Alliance);
  - Volumes I, II and III Social Security Legislation;
  - Housing Benefit and Council Tax Legislation (Findlay/George/Poynter/Stagg/Wright).

#### *Scope of Welfare Benefits Legal Help*

- 10.76 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.
- 10.77 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.
- 10.78 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.
- 10.79 You cannot attend an interview under caution under this Category. Such work can only be carried out under the General Criminal Contract.
- 10.80 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.

#### *Matter Start Rules*

- 10.81 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 3.59 above).
- 10.82 Separate Matter Starts in relation to problems with different benefits will be justified only where the conditions in Paragraphs 3.40 to 3.60 of the general provisions are satisfied.

## Consumer and General Contract

10.83 Three Legal Competence Standards are set out for Supervisors in this Category, namely:

- (a) the General Standard at Paragraphs 10.85 to 10.89
- (b) the Professional Negligence Standard at Paragraphs 10.90 to 10.94
- (c) the Disability Discrimination Standard at Paragraphs 10.95 to 10.99

10.84 Initially, to receive Schedule Authorisation in Consumer and General Contract, you must employ a Supervisor who satisfies any one of these three Standards. However, with effect from 1 October 2012, the General Standard will cease to apply. From that time, you will only receive Schedule Authorisation in Consumer and General Contract if you employ a Supervisor who satisfies either the Professional Negligence or the Disability Discrimination Standard.

### *Supervisors' Legal Competence Standard – General*

10.85 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in the Consumer and General Contract case categories in Table One below:

<b>Table One</b>		
	<b>Consumer and General Contract case category</b>	<b>Minimum number of case files required</b>
1	Defective Goods and Services: <ol style="list-style-type: none"> <li>1. Cars (sales of and repairs to)</li> <li>2. Home improvements</li> <li>3. Holidays</li> <li>4. Domestic electrical appliances (sale of and repairs to)</li> <li>5. Furniture and finishings</li> <li>6. Clothing</li> <li>7. Other</li> </ol>	8 case files from 1 to 7, of which at least 4 should be from 1 - 4
2	Credit/Loans: <ul style="list-style-type: none"> <li>• HP and title</li> <li>• Early settlement</li> <li>• Termination of HP/conditional sale</li> <li>• Equal liability</li> </ul>	2 case files from any in the list
3	Cancellation/Withdrawal: <ul style="list-style-type: none"> <li>• Credit</li> <li>• Transactions conducted away from trade premises</li> <li>• Insurance (home/buildings/life)</li> <li>• Fuel</li> <li>• Timeshare</li> <li>• Other</li> </ul>	1 case file from any in the list
4	Insolvency/Bankruptcy	1 case file
5	Other Debts: <ul style="list-style-type: none"> <li>• Tax/Ni/VAT</li> <li>• Fines</li> <li>• CS/Maintenance</li> </ul>	3 case files from any in the list

6	Refusal to Supply Goods/Services: <ul style="list-style-type: none"> <li>• Credit</li> <li>• Fuel</li> <li>• Other – on any grounds (e.g. age, postcode, gender, disability)</li> </ul>	1 case file from any in the list
7	Insurance/Pension/Saving	1 case file
8	Pricing and Charging Disputes	1 case file
9	Disability Discrimination Act 1995 (Ss 22-25)	1 case file

10.86 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in each of the 7 case types in Table Two below:

	<b>Consumer and General Contract case type</b>	<b>Minimum number of case files required</b>
1	Case where a personal injury issue has been identified	1 case file
2	Case where criminal issues have been identified and explained to the client	3 case files
3	Case in which there has been either representation at the county court or attendance at ADR	2 case files
4	Case where an unfair term has been identified and explained to the client	1 case file
5	Case involving exclusion clauses	1 case file
6	Case which required referral to further progress the case	2 case files
7	Case involving the Disability Discrimination Act 1995 sections 22-25	1 case file

10.87 The Supervisor must maintain a portfolio (including case name and reference) of cases to demonstrate compliance with Paragraphs 10.85 to 10.86. The same case file can be used to demonstrate compliance with Paragraphs 10.85 and 10.86.

10.88 Prior to the appointment as Consumer and General Contract Category Supervisor the individual must have demonstrated to our satisfaction a portfolio of cases which meet the requirement in Paragraphs 10.85 and 10.86.

10.89 The Supervisor must take account of any changes in legislation and case law and maintain access for the duration of the Contract to the following required texts:

- Subscription to at least 1 (updated) consumer encyclopaedia (it could be a CD-ROM/online);
- Current copy of the Civil Procedure Rules and supplements.

*Supervisors' Legal Competence Standard – Professional Negligence*

10.90 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in the

Consumer and General Contract – Professional Negligence case categories in Table One below:

<b>Table One</b>		
	<b>Consumer and General Contract – Professional Negligence case category</b>	<b>Minimum number of case files required</b>
1	Claims against: <ul style="list-style-type: none"> <li>• Surveyors</li> <li>• Architects</li> <li>• Builders, electricians, plumbers etc</li> <li>• Financial and tax advisors</li> <li>• Financial services providers e.g. accountancy, auditing</li> <li>• Lawyers</li> </ul>	15 case files from at least 3 in the list

10.91 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in each of the 5 case types in Table Two below:

<b>Table Two</b>		
	<b>Consumer and General Contract – Professional Negligence case type</b>	<b>Minimum number of case files required</b>
1	Case where an issue to do with causation has been identified and explained to the client	1 case file
2	Case where quantum has been established and explained to the client	3 case files
3	Case where the need for an expert witness was evaluated	5 case files
4	Case which demonstrates application of the tort criteria	2 case files
5	Case in which there has been either representation at the county court or attendance at ADR	3 case files

10.92 The Supervisor must maintain a portfolio (including case name and reference) of cases to demonstrate compliance with Paragraphs 10.90 and 10.91. The same case file can be used to demonstrate compliance with Paragraphs 10.90 and 10.91.

10.93 Prior to the appointment as Consumer and General Contract – Professional Negligence Category Supervisor the individual must have demonstrated to our satisfaction a portfolio of cases which meet the requirement in Paragraphs 10.90 and 10.91.

10.94 The Supervisor must take account of any changes in legislation and case law and maintain access for the duration of the Contract to the following required texts:

- Subscription to at least 1 updated consumer encyclopaedia (it could be a CD-ROM/online);
- Current copy of the Civil Procedure Rules and supplements.

*Supervisors' Legal Competence Standard – Disability Discrimination*

10.95 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in the Consumer and General Contract – Disability Discrimination case categories in Table One below:

<b>Table One</b>		
	<b>Consumer and General Contract – Disability Discrimination case category</b>	<b>Minimum number of case files required</b>
1	Failure to provide reasonable adjustments in provision of /by: <ul style="list-style-type: none"> <li>• Leisure facilities/Holidays</li> <li>• Transport</li> <li>• Retail goods/services</li> <li>• Banks, post offices, utilities</li> <li>• Professional services/auxiliary aids/services</li> <li>• Court service</li> <li>• Other</li> </ul>	12 case files from at least 3 in the list
2	Case which has raised issues of victimisation or direct discrimination	1 case file
3	Case which has involved pricing and charging issues	1 case file
4	Case under sections 22 – 27 of the Disability Discrimination Act 1995	3 case files

10.96 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in each of the 6 case types in Table Two below:

<b>Table Two</b>		
	<b>Consumer and General Contract – Disability Discrimination case type</b>	<b>Minimum number of case files required</b>
1	Case where the alleged discrimination has resulted in personal injury	1 case file
2	Case where the client was advised about additional remedies: <ul style="list-style-type: none"> <li>• Alternative dispute resolution</li> <li>• Apology</li> <li>• Complaints procedure</li> <li>• Ex Gratia Scheme</li> </ul>	1 case file from any in the list
3	Case where public functions have been identified and explained to the client	3 case files
4	Case in which there has been either representation at the County Court or attendance at ADR	1 case file
5	Case involving proportionality	1 case file
6	Case involving breach of contract (if DDA cannot apply e.g. expiry of time limit)	1 case file

10.97 The Supervisor must maintain a portfolio (including case name and reference) of cases to demonstrate compliance with Paragraphs 10.95 and 10.96. The

same case file can be used to demonstrate compliance with Paragraphs 10.95 and 10.96.

10.98 Prior to the appointment as Consumer and General Contract – Disability Discrimination Category Supervisor the individual must have demonstrated to our satisfaction a portfolio of cases, which meet the requirement in Paragraphs 10.95 and 10.96.

10.99 The Supervisor must take account of any changes in legislation and case law and maintain access for the duration of the Contract to the following required texts:

- Subscription to EHRC and Discrimination Law Association publications
- Current copy of the Civil Procedure Rules and supplements.

## **Personal Injury**

### *Supervisors' Legal Competence Standard*

10.100 The Supervisor must hold current membership of The Law Society's Personal Injury Panel.

10.101 The Supervisor must take account of any changes in legislation and case law

## **Clinical Negligence**

### *Supervisors' Legal Competence Standard*

10.102 The Supervisor must hold current membership of either:

- (a) The Law Society's Clinical Negligence Accreditation Scheme; or
- (b) The Action against Victims of Medical Accidents (AVMA) Clinical Negligence Panel.

10.103 The Supervisor must be a member of a network organisation (national or regional) which provides a regular forum for meeting other specialist clinical negligence practitioners with the aim of maintaining and improving knowledge and understanding of clinical negligence law and best practice

(Note: Regular forum means at least twice a year. Membership means attendance at one meeting per year as a minimum, plus evidence that issues raised by all minutes or any publications have been assessed for the purpose of determining whether any should be raised with, or the subject of training for, supervised staff).

10.104 The Supervisor must have access to a detailed and regularly maintained list of experts from which supervised staff can be directed, or can direct themselves under supervision, to the most appropriate source of assistance according to the nature of the case and type of expert services required

10.105 The Supervisor must take account of any changes in legislation and case law.

## Education

### *Supervisors' Legal Competence Standard*

10.106 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases (out of the 8) in the Education case categories in Table One below:

<b>Table One</b>		
	<b>Education case category</b>	<b>Minimum number of case files required</b>
Section 1 is mandatory, in addition, a further 5 case files in total must be drawn from at least two of sections 2 to 8:		
1a	Special Educational Needs: <ul style="list-style-type: none"> <li>• Preparation of an appeal to a tribunal</li> </ul>	2 case files
1b	Special Educational Needs: <ul style="list-style-type: none"> <li>• General advice/assistance pre-assessment</li> <li>• Advice/assistance on an Assessment or Statement</li> <li>• Advice on appealing/reviewing a tribunal decision</li> <li>• Advice on enforcement of a Statement of Provision</li> </ul>	3 case files from any 4 in the list
2	Admissions for Children (Excluding Statemented and Special Needs Children): <ul style="list-style-type: none"> <li>• Advice/assistance on obtaining a school place; or</li> <li>• Preparation of an appeal; or</li> <li>• Consideration of an appeal decision</li> </ul>	1 case file from any in the list
3	Exclusions: <ul style="list-style-type: none"> <li>• Advice/assistance for an excluded client; or</li> <li>• Preparation of an appeal to Governors or a Statutory Appeal Panel; or</li> <li>• Consideration of an appeal decision</li> </ul>	1 case file from any in the list
4	Out of School: <ul style="list-style-type: none"> <li>• Advice/assistance for children without a school place (including children educated at home)</li> </ul>	1 case file from any in the list
5	Ancillary Local Education Authority Functions – advice on any of the following: <ul style="list-style-type: none"> <li>• Local Authority Support for pupils; or</li> <li>• Jurisdiction; or</li> <li>• School reorganisation; or</li> <li>• Other (please specify); or</li> <li>• Home to school transport</li> </ul>	1 case file
6	Ancillary School Functions – advice on any of the following: <ul style="list-style-type: none"> <li>• Complaints against the school; or</li> <li>• Curricular issues; or</li> </ul>	1 case file

	<ul style="list-style-type: none"> <li>• Banning parents; or</li> <li>• Health and Safety issues; or</li> <li>• Class size; or</li> <li>• Bullying; or</li> <li>• Other (please specify)</li> </ul>	
7	Post School Functions – advice on any of the following: <ul style="list-style-type: none"> <li>• Funding issues; or</li> <li>• Disciplinary issues; or</li> <li>• Learning difficulties; or</li> <li>• Quality of provision; or</li> <li>• Admissions; or</li> <li>• Complaints; or</li> <li>• Other (please specify)</li> </ul>	1 case file
8	Disability Discrimination <ul style="list-style-type: none"> <li>• Advice/assistance on disability discrimination issues in schools, universities, and other further education establishments; or</li> <li>• Advice/assistance on an appeal to a tribunal or appeal panel; or</li> <li>• Advice/assistance on appealing/reviewing a tribunal or appeal panel decision</li> </ul>	1 case file from any in the list

10.107 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in each of the 3 case types in Table Two below:

<b>Table Two</b>		
	<b>Education case type</b>	<b>Minimum number of case files required</b>
1	Case which required representation or attendance at a Special Education Needs Tribunal. Where attendance is used as the evidence this would need to be supported by a written critical appraisal assessing the performance of parties concerned with the tribunal attended.	2 case files
2	Case where Administrative Court remedies were explained (at least one must be in an area other than Special Education Needs)	2 case files
3	Case where Human Rights were considered	1 case file

10.108 The Supervisor must maintain a portfolio (including case name and reference) of cases to demonstrate compliance with Paragraphs 10.106 and 10.107. The same case file can be used to demonstrate compliance with Paragraphs 10.106 and 10.107.

10.109 Prior to the appointment as Education Category Supervisor the individual must have demonstrated to our satisfaction a portfolio of cases which meet the requirement in Paragraphs 10.106 and 10.107.

10.110 The Supervisor must take account of any changes in legislation and case law and maintain access for the duration of the Contract to the following required texts:

- Subscription to at least 1 nationally published specialist document;
- Demonstrated access to specialist Education law reports.

### **Actions Against the Police etc.**

10.111 Two Legal Competence Standards are set out for Supervisors in this Category, namely:

- (a) the General Standard at Paragraphs 10.112 to 10.116
- (b) the Abuse in Care Standard at Paragraphs 10.117 to 10.121

To receive Schedule Authorisation in Actions Against the Police etc, you must employ a Supervisor who satisfies either of these two Standards.

### *Supervisors' Legal Competence Standard – General*

10.112 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in the Actions Against the Police etc. case categories in Table One below:

<b>Table One</b>		
	<b>Actions Against the Police etc. case category</b>	<b>Minimum number of case files required</b>
1	Civil Actions: 1. Assault 2. Death in custody/inquest 3. Discrimination 4. False imprisonment/including wrongful arrest 5. Human Rights Act Claim 6. Interference with goods 7. Malicious Prosecution 8. Miscarriage of Justice compensation claim 9. Misfeasance in public office 10. Negligence 11. Abuse of any vulnerable person and failure to take into care 12. Trespass to land	6 case files from 1 to 12, no more than 2 case files per action
2	Complaints against public authorities (Police or Prison Service)	4 case files of which at least 2 go to an appeal, ombudsman or judicial review proceedings, and an additional file which concerned a complaint in relation to a civil action described in Section 1 above.

10.113 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in each of the 5 case types in Table Two below:

<b>Table Two</b>		
	<b>Actions Against the Police etc. case type</b>	<b>Minimum number of case files required</b>
1	Case progression (sending letter of claim and considering response and advising the client)	3 case files of which one must progress further into a case management conference
2	Case where the client was advised about additional remedies: <ul style="list-style-type: none"> <li>• Alternative dispute resolution</li> <li>• Apology</li> <li>• Data Protection application</li> <li>• ECHR</li> <li>• Ex Gratia Scheme</li> </ul>	2 case files from any in the list
3	Case within the last 3 years of matters being settled in the claimants favour after issue or, of a case being decided at trial	2 case files
4	Case which demonstrated the following: <ul style="list-style-type: none"> <li>• Ability to recognise potential public interest implications of proceedings, in producing real benefits for individuals other than the client</li> <li>• Assessing the case and advising the client as to the impact of the Human Rights Act/ECHR upon their case</li> <li>• The ability to recognise the possibility of judicial review proceedings (including the purpose and the client's role (and, for non solicitor agencies, if the decision is to progress the case, the need for referral to a solicitor)</li> </ul>	2 case files from 1 to 3, no more than 1 per matter
5	Case in which the client was advised on making or accepting offers (including Part 36 pre or post-issue)	2 case files

10.114 The Supervisor must maintain a portfolio (including case name and reference) of cases to demonstrate compliance with Paragraphs 10.112 and 10.113. The same case file can be used to demonstrate compliance with Paragraphs 10.112 and 10.113.

10.115 Prior to the appointment as Actions Against the Police etc. Category Supervisor the individual must have demonstrated to our satisfaction a portfolio of cases which meet the requirement in Paragraphs 10.112 and 10.113.

10.116 The Supervisor must take account of any changes in legislation and case law and maintain access for the duration of the Contract to the following required texts:

- Subscription to at least 1 nationally published journal which provides updates in the specialist area;

- Current copy of at least one core police/prison law text;
- Demonstrated access to Police/Prison Law statutes and regulations (if a firm covers both fields there must be access to both);
- Current edition of JSB guidelines;
- Current copy of the Civil Procedure Rules and supplements.

*Supervisors' Legal Competence Standard – Abuse in Care*

10.117 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in the Actions Against the Police etc. – Abuse in Care only case categories in Table One below:

<b>Table One</b>		
	<b>Actions Against the Police etc. – Abuse in Care case category</b>	<b>Minimum number of case files required</b>
1	Abuse in care cases: <ul style="list-style-type: none"> <li>• Claim for damages against a local authority by persons alleging child abuse while in its care</li> <li>• Claim for damages against a local authority by persons alleging failure to take into care</li> <li>• Claim for damages against any authority by persons alleging abuse of a vulnerable adult</li> </ul>	5 case files from at least 2 areas in the list

10.118 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in each of the 5 case types in Table Two below:

<b>Table Two</b>		
	<b>Actions Against the Police etc. – Abuse in Care case type</b>	<b>Minimum number of case files required</b>
1	Case progression (sending letter of claim and considering response and advising the client)	3 case files of which one must progress further into a case management conference
2	Case where the client was advised about additional remedies: <ul style="list-style-type: none"> <li>• Alternative dispute resolution</li> <li>• Apology</li> <li>• Data Protection application</li> <li>• ECHR</li> </ul>	2 case files from any in the list
3	Case within the last 3 years of matters being settled in the claimants favour after issue or, of a case being decided at trial	2 case files
4	Case which demonstrated the following: <ul style="list-style-type: none"> <li>• Ability to recognise potential public interest implications of proceedings, in producing real benefits for individuals other than the client</li> <li>• Assessing the case and advising the client as to the impact of the Human</li> </ul>	2 case files from at least 2 areas in the list

	Rights Act/ECHR upon their case <ul style="list-style-type: none"> <li>• The ability to recognise the possibility of judicial review proceedings (including the purpose and the client's role (and, for Not for Profit agencies, if the decision is to progress the case, the need for referral to a solicitor))</li> </ul>	
5	Case in which the client was advised on making or accepting offers (including Part 36 pre or post-issue)	2 case files

10.119 The Supervisor must maintain a portfolio (including case name and reference) of cases to demonstrate compliance with Paragraphs 10.117 and 10.118. The same case file can be used to demonstrate compliance with Paragraphs 10.117 and 10.118.

10.120 Prior to the appointment as Actions Against the Police etc. – Abuse in Care Category Supervisor the individual must have demonstrated to our satisfaction a portfolio of cases which meet the requirement in Paragraphs 10.117 and 10.118.

10.121 The Supervisor must take account of any changes in legislation and case law and maintain access for the duration of the Contract to the following required texts:

- Subscription to at least 1 nationally published journal which provides updates in the specialist area;
- Current copy of at least one core police/prison law text;
- Demonstrated access to Police/Prison Law statutes and regulations (if a firm covers both fields there must be access to both);
- Current edition of JSB guidelines;
- Current copy of the Civil Procedure Rules and supplements.

## Community Care

### *Supervisors' legal competence standard*

10.122 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in the Community Care case categories in Table One below:

<b>Table One</b>		
	<b>Community Care case category</b>	<b>Minimum number of case files required</b>
1	Assessment: <ul style="list-style-type: none"> <li>• Failure to assess or review assessments</li> <li>• Disputed assessments</li> <li>• Implementation</li> </ul> (Note: Where the supervisor cannot demonstrate three separate examples over the 12 month period but can evidence one substantial case (i.e. High	3 case files

	Court or a case of 100 hours or more), this may demonstrate the required level of experience in this type of Community Care case)	
2	<ul style="list-style-type: none"> <li>• Charging for services</li> <li>• Health Service provision</li> <li>• Services for asylum seekers</li> <li>• Services for children</li> <li>• Unsuitable/inappropriate housing</li> <li>• Hospital discharge</li> <li>• Capacity issues</li> <li>• Closure/reorganisation</li> <li>• Service Provision and eligibility criteria</li> <li>• Carers rights and needs</li> </ul>	2 case files

10.123 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in each of the 4 case types in Table Two below:

<b>Table Two</b>		
	<b>Community Care case type</b>	<b>Minimum number of case files required</b>
1	Case demonstrating the ability to recognise the appropriateness of Judicial Review and to act upon it (referral may be accepted as appropriate action for non-solicitor organisations)	1 case file
2	Case where substantive advice is given to the client on the appropriate remedy in their case, one of which is Judicial Review and the other is an alternative remedy (i.e. complaints or other dispute resolution, ombudsman/commissioner)	2 case files
3	Case in which the client was advised as to the impact of the Human Rights Act upon their case	1 case file
4	Case which demonstrated an ability to recognise the need for welfare benefits advice and to act upon it	1 case file

10.124 The Supervisor must maintain a portfolio (including case name and reference) of cases to demonstrate compliance with Paragraphs 10.122 and 10.123. The same case file can be used to demonstrate compliance with Paragraphs 10.122 and 10.123.

10.125 Prior to the appointment as Community Care Category Supervisor the individual must have demonstrated to our satisfaction a portfolio of cases which meet the requirement in Paragraphs 10.122 and 10.123.

10.126 Where at the Contract Start Date you employ an individual who meets the Supervisor requirements in the Housing category, and meets:

- the Legal Competence Standard set out above; and

- the Case Involvement Standard set out at Paragraphs 2.24 to 2.26 for Community Care in respect of the past 12 months

that individual will be deemed to meet the Community Care Supervisor Standard for up to two years, notwithstanding that they do not meet the Legal Competence Standard or the Case Involvement Standard for Community Care in respect of prior periods. In order to maintain Supervisor status, an individual Community Care Supervisor must during any 12 month period of the Contract meet the Case Involvement Standard and Legal Competence Standard. Any individual taking up the role of Community Care Supervisor after the Contract Start Date must meet the Supervisor Standard in full.

10.127 The Supervisor must take account of any changes in legislation and case law and maintain access for the duration of the Contract to the following required texts:

- Subscription to at least 1 nationally published journal containing community care law updates;
- Access to at least 1 core community care law text;
- Access to community care law reports and guidance;
- Access to Civil Procedure Rules and Practice Directions;
- Access to up to date information concerning Health Service structure.

## Public Law

### *Supervisors' Legal Competence Standard*

10.128 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in the Public Law case categories in Table One below:

<b>Table One</b>		
	<b>Public Law case category</b>	<b>Minimum number of case files required</b>
1	Demonstrate a breadth of experience across the subject category:  Within the last 3 years, 3 cases that have involved the application of the principles of public law across at least 3 subject areas, e.g. either different categories of law or distinct areas within a category of law.	3 case files

10.129 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in each of the 6 case types in Table Two below:

<b>Table Two</b>		
	<b>Public Law case type</b>	<b>Minimum number of case files required</b>
1	Cases in which substantive advice was given to the client on the advantages and disadvantages of remedies alternative to	2 case files

	litigation; or of actual conduct of cases where an alternative remedy has been pursued (e.g. complaints, procedures, ombudsman)	
2	Case involving judicial review proceedings	1 case file
3	Case in which proceedings were conducted or prepared (at least to the stage of making a representation on behalf of the client) from the following: <ul style="list-style-type: none"> <li>• Judicial Review</li> <li>• Habeas Corpus</li> <li>• Statutory Appeals</li> <li>• ECHR</li> <li>• ECJ (where the case turns upon public issues)</li> <li>• Non-court based remedies (e.g. complaints procedures)</li> </ul>	2 case files (not already used as evidence for section 2)
4	Case involving research on a statutory or regulatory framework	1 case file
5	Case in which the impact of the Human Rights Act was assessed and the client was advised of the impact	1 case file
6	Case in which potential public interest implications of proceedings, in producing real benefits for individuals other than the client were recognised	1 case file

10.130 The Supervisor must maintain a portfolio (including case name and reference) of cases to demonstrate compliance with Paragraphs 10.128 and 10.129. The same case file can be used to demonstrate compliance with Paragraphs 10.128 and 10.129.

10.131 Prior to the appointment as Public Law Category Supervisor the individual must have demonstrated to our satisfaction a portfolio of cases which meet the requirement in Paragraphs 10.128 and 10.129.

10.132 The Supervisor must take account of any changes in legislation and case law and maintain access for the duration of the Contract to the following required texts:

- Access to public law reports;
- Subscription to at least 1 nationally published specialist journal containing public law updates;
- Access to at least 1 core administrative text;
- Access to at least 1 core human rights law text.