

Update to the Provider Training Pack – October 2007

Why do we need an update?

The Provider Training sessions we held in September contained a huge amount of new information for you to digest and generated a number of questions asking for more detail on certain topics, as well as some very helpful feedback regarding information that you thought would be useful to include in our guidance materials.

It is important that we respond to these queries and also highlight some Key Information that will help you to work effectively under the new schemes. You can add this update to your Provider Pack at Section A.

Where will I find the answer to my question?

The Training Pack advised that our Website is the best place to find the most up to date information on all the new civil schemes (including Mental Health and Immigration & Asylum), in particular the Q & A documents for each scheme, which have been updated after the sessions.

They can be found in the Pay rates & Schemes section of the CLS page:

www.legalservices.gov.uk/civil/payrates_schemes.asp

The Q & As are all on the right hand side of this page, or you can choose the Scheme you require on the left hand side of the page for further information as well as another link to the Q & A.

Alternatively you can follow these links:

www.legalservices.gov.uk/docs/civil_contracting/QAFamilyHelpPrivateFeeScheme.pdf

www.legalservices.gov.uk/docs/cls_main/QAPublicLawCareProceedings.pdf

www.legalservices.gov.uk/docs/civil_contracting/QandAFamilyMediationFeeScheme270907.pdf

[www.legalservices.gov.uk/docs/civil_consultations/Mental Health Fee Scheme Questions and Answers_10th_August.pdf](http://www.legalservices.gov.uk/docs/civil_consultations/Mental_Health_Fee_Scheme_Questions_and_Answers_10th_August.pdf)

www.legalservices.gov.uk/Immigration_and_Asylum_FAQs_October_07_v1.pdf

The majority of the questions centre around:

- What work can be done at each level of service
- Progression through the levels
- Exceptional Cases

Another useful link is to the Family Decision Making Guidance, which has been updated for the new schemes:

www.legalservices.gov.uk/civil/fains/legal_guidance_updates.asp

Key Information

As well as looking at the Q & A documents on our website it is important that you look at this Key information;

- A Client in receipt of Legal Help is no longer automatically exempt from court fees
- There are now two CW1 forms
- Clarification of calculating Exceptional Cases in the Care Proceedings Scheme - Level 2
- There is a higher rate for s202 Housing matters
- CMRF Guidance is available
- Q & A for KPI

A client in receipt of Legal Help is no longer automatically exempt from court fees

When did this change?

From 1st October 2007, the court service rules have changed and a client in receipt of Legal Help is no longer automatically eligible for exemption from court fees solely on the basis that he/she is in receipt of Legal Help. This will primarily affect petitioners in divorce proceedings.

So when will they be eligible?

Only clients in receipt of certain means tested benefits or below a certain gross income will be fully exempt. All other applicants will be assessed by the court on a sliding scale and may have to pay a proportion of the fee. This will be calculated by the court.

So if they are not exempt can these fees be claimed as disbursement?

No. Section 5.26 of the Civil Specification in the Unified Contract -

www.legalservices.gov.uk/docs/civil_contracting/070813_Civil_Specification_General_Provisions.pdf

- advises that court fees are not allowable disbursements under Controlled work unless for a search / photocopies / bailiff service or otherwise permitted by Category Specific Rules.

For Family purposes the exception to this is set out in section 10.61 of the Family Specification -

www.legalservices.gov.uk/docs/civil_contracting/070813_Civil_Specification_Section_10_FamilySpecification.pdf

- which states that court fees *are* allowable under Level 2 (Family Help Lower) only where such fees are incurred for the purpose of obtaining a Consent Order and the Funding Code criterion are met

The court fee on presenting a petition was not an allowable disbursement under the old scheme either; it is the exemption criteria on application to the court - whereby a client in receipt of Legal Help has been automatically eligible for an exemption from the court fee - that has changed.

Any queries and issues regarding changes in the fee exemptions can be addressed to HMCS Customer Service Unit at:

customerservicecshq@hmcourts-service.gsi.gov.uk

The New CW1s

The Provider Pack did not make it clear that, as of October, we have two new CW1 forms: View these forms at:

www.legalservices.gov.uk/civil/forms.asp

Legal Help, Help at Court and Family Help(Lower)

Family Help (Lower) Public Law

Legal Help, Help at Court and Family Help (Lower)
Please complete in Block Capitals

Equal Opportunities Monitoring
Completion of this section is voluntary. This will be treated in the strictest confidence and will be used purely for statistical monitoring and research.
Please tick the boxes which your client would describe themselves as being:

Ethnic Monitoring

White	Mixed	Asian or Asian British
<input type="checkbox"/> (a) British	<input type="checkbox"/> (a) White and Black Caribbean	<input type="checkbox"/> (a) Indian
<input type="checkbox"/> (b) Irish	<input type="checkbox"/> (b) White and Black African	<input type="checkbox"/> (b) Pakistani
<input type="checkbox"/> (c) White Other	<input type="checkbox"/> (c) White and Asian	<input type="checkbox"/> (c) Bangladeshi
<input type="checkbox"/> (d) Mixed Other	<input type="checkbox"/> (d) Asian Other	<input type="checkbox"/> (d) Asian Other

Black or Black British

<input type="checkbox"/> (a) Black Caribbean	<input type="checkbox"/> Chinese	<input type="checkbox"/> Other
<input type="checkbox"/> (b) Black African		
<input type="checkbox"/> (c) Black Other		

Disability Monitoring
The Disability Discrimination Act defines disability as: a physical or mental impairment which has a substantial and long-term adverse effect on a persons ability to carry out normal day-to-day activities.
If a client considers himself or herself to have a disability please select the most appropriate definition. If the client has multiple disabilities please select the definition that reflects the predominant disability.

Definitions:

Not Considered Disabled	<input type="checkbox"/>	Cognitive Impairment	<input type="checkbox"/>
Physical Impairment	<input type="checkbox"/>	Long-Standing Illness Or Health Condition	<input type="checkbox"/>
Sensory Impairment	<input type="checkbox"/>	Other	<input type="checkbox"/>
Mental Health Condition	<input type="checkbox"/>	Unknown	<input type="checkbox"/>
Learning Disability/Difficulty	<input type="checkbox"/>		

Your client's details

Title: _____ Initials: _____
Surname: _____
First name: _____
Surname at birth (if different): _____
Date of birth: / / National Insurance no: _____
Sex: Male Female
Marital status: Single Married/Cohabiting Married but separated
 Divorced Civil Partner Widowed
Place of birth (Town): _____ Job: _____
Current address: _____
Town: _____ Postcode: _____
County: _____

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Family Help (Lower) Public Law
To be completed when advising parents or those with parental responsibility for a child where the local authority has given written notice that it intends to issue proceedings under Section 3
Please complete in Block Capitals

Equal Opportunities Monitoring
Completion of this section is voluntary. This will be treated in the strictest confidence and will be used purely for statistical monitoring and research.
Please tick the boxes which your client would describe themselves as being:

Ethnic Monitoring

White	Mixed	Asian or Asian British
<input type="checkbox"/> (a) British	<input type="checkbox"/> (a) White and Black Caribbean	<input type="checkbox"/> (a) Indian
<input type="checkbox"/> (b) Irish	<input type="checkbox"/> (b) White and Black African	<input type="checkbox"/> (b) Pakistani
<input type="checkbox"/> (c) White Other	<input type="checkbox"/> (c) White and Asian	<input type="checkbox"/> (c) Bangladeshi
<input type="checkbox"/> (d) Mixed Other	<input type="checkbox"/> (d) Asian Other	<input type="checkbox"/> (d) Asian Other

Black or Black British

<input type="checkbox"/> (a) Black Caribbean	<input type="checkbox"/> Chinese	<input type="checkbox"/> Other
<input type="checkbox"/> (b) Black African		
<input type="checkbox"/> (c) Black Other		

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If a client considers himself or herself to have a disability please select the most appropriate definition. If the client has multiple disabilities please select the definition that reflects the predominant disability.

Definitions:

Not Considered Disabled	<input type="checkbox"/>	Cognitive Impairment	<input type="checkbox"/>
Physical Impairment	<input type="checkbox"/>	Long-Standing Illness Or Health Condition	<input type="checkbox"/>
Sensory Impairment	<input type="checkbox"/>	Other	<input type="checkbox"/>
Mental Health Condition	<input type="checkbox"/>	Unknown	<input type="checkbox"/>
Learning Disability/Difficulty	<input type="checkbox"/>		

Your client's details

Title: _____ Initials: _____
Surname: _____
First name: _____
Surname at birth (if different): _____
Date of birth: / / National Insurance no: _____
Sex: Male Female
Marital status: Single Married/Cohabiting Married but separated
 Divorced Civil Partner Widowed
Place of birth (Town): _____ Job: _____
Current address: _____
Town: _____ Postcode: _____
County: _____

Controlled Work 1PL Page 1 Version 1 October 2007 (c) Legal Services Commission

They look similar, so what is the difference?

Looking at page one, it would seem very little (apart from the name), however turning over you will see that the Public Law form does not include the Financial Eligibility section.

So do we use the 'Family Help (Lower) Public Law' Form for all Family Public Law matters?

No. To recap, there are now two levels of service for Controlled Work in Family:

- Level 1: Legal Help
- Level 2: Family Help Lower

All cases in Family that begin at Level 1 require the completion of the CW1 'Legal Help' form - including a full means test for the client.

For Private Law matters this form will see the client through until the end of the matter, or until it moves on to a Certificate.

So when do we use the 'Family Help (Lower) Public Law' Form?

The Family Help (Lower) Public or 'CW 1PL' Form - is to be used in either of these two circumstances:

- The client comes to see you on a Public Law matter **before written notice is received** from the Local Authority that Proceedings are being considered and the **notice is subsequently received** – *You therefore start at level 1 and will **also** complete the 'second' form when you move to level 2*
- The client comes to see you **after written notice is received** from the Local Authority that Proceedings are being considered and **the matter starts at Level 2** - *The level 1 Legal Help form is not required.*

Do we need to ask the LSC if we can move to Level 2?

No. It is your decision to make, based on the criteria is defined in the Family Specification of the Unified Contract at 10.55 (Private) and 10.29 (Public).

www.legalservices.gov.uk/docs/civil_contracting/070813_Civil_Specification_Section_10_FamilySpecification.pdf

So what is the point of the second form?

There are a number of reasons why we decided it was appropriate to have a separate form for this work.

Firstly Public law level 2 is a new level of service and is used exclusively for Care and Supervision Proceedings under s31 of the Children Act 1989 and only where the client is a parent or a person with parental responsibility and after written notice has been received.

Also as Public level 2 work is non-means tested for cases that start at this level you can just use the simplified form.

Finally the form also gives you this prompt to aid you in exercising ‘devolved power’ when working at level 2;

Criteria for level of service.	
Has evidence of the local authority giving written notice of the potential Section 31 proceedings been provided?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Is the client a parent or person with parental responsibility for the child who is the subject of the intended proceedings?	Yes <input type="checkbox"/> No <input type="checkbox"/>

What will happen if we complete the wrong form?

Failure to assess means where required will lead to sanctions.

If you do not establish that the client is financially eligible where it is required for that level of service (if for example you *only* complete the Public Family Help (lower) on a Private matter, or on a Public matter that starts at level 1) then all costs at that level are not claimable.

If you do claim for this work and we identify this on assessment or audit we will disallow the costs, and failure to routinely assess clients’ means will lead to further sanctions.

Client’s certification & Criteria

As you can see above the first pages of both forms are virtually identical, and this client information is required in all cases. The Clients Certification is slightly different in that if you are starting at Level 1 (and completing the Legal Help Form), the client must certify that he/she has not received this level of service previously. There is also no need to advise about The Charge for Public law matters at level 2.

Client's Certification	
Please tick the box below which applies to you:-	
<input type="checkbox"/> I have not already received Legal Help or Family Help (Lower) from a solicitor or contracted supplier on this matter.	
<input type="checkbox"/> I have already received Legal Help or Family Help (Lower) from a solicitor or contracted supplier on this matter. If so, please state when.	
<small>I agree to my solicitor or contracted supplier having a first charge on any money or property (including costs) which I recover or preserve in or in relation to the matter for which I am being advised. (Personal injury, clinical negligence and family matters only).</small>	
<small>As far as I know all the information I have given is true including information as to my means and I have not withheld any relevant information.</small>	
<small>I understand that if I give false information the services provided to me may be cancelled and I may be prosecuted.</small>	
Signed: _____	Date: _____

Client's Certification	
Please tick the box below which applies to you:-	
<input type="checkbox"/> I have not already received Family Help (Lower) from a solicitor or contracted supplier on this matter.	
<input type="checkbox"/> I have already received Family Help (Lower) from a solicitor or contracted supplier on this matter. If so, please state when.	
<small>As far as I know all the information I have given is true including information as to my means and I have not withheld any relevant information.</small>	
<small>I understand that if I give false information the services provided to me may be cancelled and I may be prosecuted.</small>	
Signed: _____	Date: _____

To claim work at Public Law Level 2 it is vital that the criteria are met, not that you have ticked the boxes on the Public law form to say they have been.

For further guidance on Public Law Level 2 please see the Q & A and the revised C5 Provider pack flow diagram at the end of this update:

www.legalservices.gov.uk/docs/cls_main/QAPublicLawCareProceedings.pdf

Clarification of calculating Exceptional Cases in the Care Proceedings Scheme - Level 2

Have we been given the wrong advice?

Your training and the Provider Pack advised that where a case is exceptional (exceeding three times the relevant fees) and where Level 1 and Level 2 advice has been provided in the Care Proceedings Scheme CLR rates should be used for both levels of advice.

This is the correct position and can be seen here at Section 7 of the Payment Annex to the Unified Contract:

www.legalservices.gov.uk/docs/civil_contracting/070813_Civil_Specification_and_Family_Mediation_Part_B_-_Payment_Annex.pdf

and here at 10.31 of the Family Specification:

www.legalservices.gov.uk/docs/civil_contracting/070813_Civil_Specification_Section_10_FamilySpecification.pdf

So why do we need an update?

In previous consultation documents the position was different and Level 1 work was calculated at Legal Help Rates and Level 2 at CLR. It may be worth checking any case management software you have to make sure it is not calculating your hourly rate in this way.

For purposes of calculating whether a case is exceptional at Level 1, where no Level 2 advice has been provided, Legal Help hourly rates will be used.

Higher rate for s202 Housing Matters

The hourly rates included in the Provider Pack did not include the higher rate for certain Housing matters as found in table 7c of the Unified Contract Payment Annex:

www.legalservices.gov.uk/civil/unified_contract.asp

www.legalservices.gov.uk/docs/civil_contracting/070813_Civil_Specification_and_Family_Mediation_Part_B_-_Payment_Annex.pdf

Legal Help cases that contain assistance with a review under section 202 Housing Act 1996 or assistance to a defendant to possession proceedings 'claimable', throughout, at the higher rates (CLR other than advocacy) shown in the annex.

You will be paid the standard Housing Fixed Fee (£171) for these matters however these rates are used in determining whether the case is exceptional and will be paid at this rate if the costs are reasonable.

Here are the rates:

Activity	London Rates	Non-London Rates
Preparation, attendance and advocacy	£61.20 per hour	£57.25 per hour
Travel and Waiting time	£30.30 per hour	£29.45 per hour
Routine letters out and telephone calls	£4.40 per item	£4.10 per item

Controlled Matter Report Form Guidance

Guidance on completing the new CMRF from October 2007 can be found on our website in the Forms section.

www.legalservices.gov.uk/civil/forms.asp

The document is called “**SMS Guidance**”. The Supplier Management System (or SMS) is the name we use for one of our IT systems, but from your point of view it forms part of your Enhanced Online Services.

A direct link to the guidance is:

[www.legalservices.gov.uk/docs/forms/SMS_Guidance_Version_1_October_2007_\(364KB\).pdf](http://www.legalservices.gov.uk/docs/forms/SMS_Guidance_Version_1_October_2007_(364KB).pdf)

A number of questions have been asked about the ‘Case ID’ box.

The Start Date and the Case ID (the sequential Number you give to each new client on a given day) makes up the Unique File Number or ‘UFN’.

Your Enhanced Online Service will automatically Complete the UFN for you once you have completed the Start Date and Case ID fields.

Case Reference Number	Case Start Date	Case ID	UFN

Matter Type	Case Stage	Advice Time	Travel Time	Waiting Time	Net Cost

If you have different departments allocating UFNs each day it may be helpful to give each a block of numbers to use, e.g. your Family department can use Case IDs 001-099, your Housing department 100-199, and Welfare Benefits 200-299.

Q & As-TFF Replacement, Unified Contract & Online Services

The only question not covered by the guidance documents in the Pack was in relation to the higher rate for Housing in TFF Replacement - as detailed above.

You should by now have received your CD based Training Modules for the Enhanced Online services, and remember if you are having any difficulties please contact the LSC Online Helpdesk via; online-support@legalservices.gov.uk

Q & A for Key Performance Indicators

As we don't have a Q & A on the Website here are the questions (with answers) you raised at the sessions;

Q - How will you control “inappropriate” Level 1 and Level 2 claiming?

A - We will use a combination of tools. We will monitor the data you report to us to identify unusual cases and profiles. This data will also inform your performance against the KPIs. Your Account Manager will monitor these and discuss any issues with you as part of their contract management duties. Alongside this we may look at a sample of your files and take action where necessary - this may mean we recoup payments from you.

Q - The assessment rates for exceptional controlled work are to be included as a KPI. What is the likely sanction, if any, if a firm does not meet the required rate?

A - There are no sanctions within the current contract for failure to achieve a KPI. Account managers will use KPIs to inform their discussions with suppliers about performance issues. This may result in an action plan for improvement. If that plan is not met, that could become contract performance issue that might result in a contract sanction. This is exactly the same approach as we have taken previously.

Q - Will KPI issues be considered when we move to BVT?

A - This is not yet known, but they will certainly be used to measure performance in the interim. We will consult separately about the arrangements for BVT.

Q - Why does referral to mediation as an outcome code not count as a substantive benefit to the client - it may be that mediation has agreed the issue and the client just does not come back - the client may well have benefited?

A - Referral to mediation is a neutral rather than a negative outcome - it is because of issues like this that the target is set at 40%

Q - A lot of the outcome codes will result in firms doing lots of / mostly care work showing as out of profile - can you create more relevant substantive benefit codes for Care work?

A – All Family Public Law matters are currently excluded from the KPIs (FAMW and FAMX matter type) and we are developing specific KPIs for these matters. We will also periodically review all endpoint codes and ensure they are fit for purpose. We need to balance this with a desire to have stability and consistency in reporting.

Q - Previous publicity has made it clear that a solicitor will need at least a Category 2 Peer Review score to move on to Preferred Supplier. What do we do if we receive a Category 3 rating that we believe to be incorrect?

A - A Category 3 Peer Review rating is acceptable, there is therefore limited value in appealing such a rating

Q - What happens to the assessment rate KPI when there has been an appeal against an assessment and that eventually goes through some time later?

A - The system is now more sophisticated than the current CMRC. Your KPI performance will be updated to show any successful appeals.

Q - You look at our assessment rates. There is a backlog on high cost case plans, so we don't know if there is a problem. What should we do?

A - You need to discuss this with your Account Manager if your KPI starts to show you as being out of profile.

Q - What about the civil fixed fee margin?

A - Under TFF, where case costs are 20% below, the TFF could be reduced. As the FF is not tailored, there will not be individual changes. However we might want to talk to you about any changes in your costs.

Q - Do the KPIs replace or supplement performance data?

A - They are formalised as part of the contract, and are used for remote monitoring. This continues our approach to focus our audit activity and discussions on particular issues. This is more meaningful and beneficial to you and us.