

A - Liaison Annex (Clause 2)

General

Your Liaison Manager and our Contract Manager or Relationship Manager must ensure that all (your or our, as appropriate) personnel deal with the other party's personnel in accordance with the Professional Code (below).

Liaison Managers, Contract Managers and Relationship Manager must be competent, and have sufficient authority, to deal with day-to-day issues that might be expected to arise in connection with performance under, payment under and compliance with, this Contract. They must be competent to discuss, at meetings, the matters in the Standard Agenda (below).

Professional Code

You and we (the parties) agree that communication between us shall, at all times, be conducted in a polite and professional manner. Both parties agree that good communication between their personnel is key to the effective operation of this Contract, agree to ensure that their personnel understand this and to provide relevant training if they consider it appropriate.

Neither party will tolerate impolite or rude communication by any of their personnel. Shouting, oppressive or threatening behaviour is expressly prohibited.

Both parties agree to report any communication or behaviour by any of the other party's personnel, which is in breach of this code, to the other party.

Both parties agree to investigate any complaints of breach of this code by any member of their personnel and to take appropriate action (including, where appropriate, notifying the other party of the action taken). Where a complaint is justified, "appropriate action" is within the discretion of the relevant party but might include requiring the person concerned to undergo relevant training (including training on the purpose of this Contract and this code).

Standard Agenda

Meetings between your Liaison Manager and our Contract Manager or Relationship Manager will cover such issues as are considered relevant at the time. These are likely to include (but are not limited to) one or more of the following issues.

- The significance of the Supplier, and the Contract Work they perform, to the Commission's regional and national procurement strategies.
- The Supplier's capacity to expand the volume, or range, of Contract Work.
- The Supplier's intentions with regard to business development and Contract Work.
- The Commission's policy intentions that might impact upon the Supplier.
- The quality of the Contract Work performed by the Supplier.
- The value for money provided by the Supplier.
- Contract performance and Contract compliance.
- Opportunities to improve the working relationship between the Supplier and the Commission with an emphasis on problem prevention and resolution.
- Opportunities for improving value for money through changes to the justice system, the performance of Contract Work, administrative arrangements or otherwise.

B - Media Annex

(Clause 2)

1 Collection of Client and Supplier 'case studies'

- 1 To promote the value of your work and legal aid generally, we are developing a case studies database of Clients and Suppliers willing to talk to the media, or be used in our communications, to illustrate the positive impact legal aid has on people's lives.
- 2 Case studies are simply real accounts of what you and we do and the people who are helped. While public debate often focuses on the 'cost' of legal aid, it is in both your and our interests to highlight the 'value' of legal aid.
- 3 Another aim is to give people a better understanding of legal aid work and how to access help when they need it.
- 4 While, understandably, many Clients will not want to talk publicly about their past problems, we have found many who are happy to do so – they have just never been asked. Clients volunteering to talk to us on this basis do, also, have the option of remaining anonymous.
- 5 Your Relationship or Account Manager may ask you about providing case studies. To participate, you or your nominated Clients submit some basic details on a simple two-page form. The forms are also available from Communications Managers at LSC regional offices and can be downloaded from our website at www.legalservices.gov.uk/civil/forms/admin.asp
- 6 We would like you to help us to raise the profile of the legal aid scheme. If the media uses your case studies, both the legal aid scheme and you should gain valuable publicity and potential clients should benefit.

C - Equality and Diversity Annex
(Clause 2)

To follow

D - Client Service Annex (Clause 3)

Clients' Interests and Independence

1. Subject to the provisions of this Contract, in complying with it and in performing Contract Work, you must act in the best interests of your Clients and be uninfluenced by any factor other than Clients' (and potential Client's) best interests and be able to demonstrate to us that there is no risk of this requirement's being compromised.
2. You must have procedures promptly to refer potential Clients and Clients to other Suppliers who are able to perform Contract Work for them, if you are unable (or cease to be able) to perform Contract Work for them. If you cease to be able to perform Contract Work for them, the procedures must also ensure that their rights are protected, that they suffer no damage and they are provided with all relevant information.

Indemnity Insurance

3. You must have appropriate indemnity insurance. This must provide at least the minimum cover required for solicitors in private practice.

Client service and file review procedures

4. You must have client service procedures that ensure that Clients are provided with appropriate information at the outset and at appropriate intervals thereafter and which ensure confidentiality.
5. You must have file review procedures that ensure that matters and cases are reviewed at appropriate intervals.
6. You must monitor (and take corrective action where necessary):
 - (a) the quality of your advice to, and other legal work for, clients;
 - (b) the quality of your client service; and
 - (c) Clients' perceptions of the service they have received from youand, as part of this monitoring, must undertake periodic client surveys.
7. You must have procedures covering the instruction of any third parties e.g. counsel and experts to ensure that services to the Client meet, overall, at least the standard required by this Contract.
8. You must have a procedure for dealing with any Clients' complaints. This must aim to determine complaints rapidly and fairly and must provide information that you must use to prevent any future similar complaints.

Individual matters and cases

9. Where we consider it appropriate, may require you to manage individual matters and cases according to the costed case plan requirements for very expensive cases in the Funding Code.

E - Monitoring Annex (Clause 3)

To reduce unnecessary intrusion into the businesses of LSC Partners, our aim is to work with LSC Partners whom we can rely on to monitor their own performance and compliance effectively and to take effective corrective action where necessary. This will allow us to audit LSC Partners' own records, reducing the need for comprehensive auditing by us, but without limiting, in any way, our contractual rights to do so.

You are responsible for your performance and compliance. You must maintain a record of your monitoring of performance and compliance (and of any corrective action and the results of it).

Records

Your records must include:

- how any client complaints have been handled
- the results of any client satisfaction surveys
- the results and reports of any internal (by you) and external (by us or a third party) audits (such as audits of your compliance with the Q.A. Standard by any third party)
- your performance against the Performance Indicators
- all identified non-compliances and the corrective action taken
- details of the operation of your equality and diversity policies, procedures and communications and a candid assessment of their effectiveness.

Annual Report

By 28 February in each year, you must have created an annual report on your performance and compliance (and any corrective action and the results of it) in the previous year (from 1 January to 31 December). This should include details of numbers of Clients helped, Claims and payments, numbers of personnel, offices etc. The annual report should also include statistics showing, in respect of clients and your personnel, their age group, ethnicity, gender, sexual orientation and disability (if any).

F - Approved Personnel and Supervisors Annex (Clause 4)

Who are Approved Personnel?

1. Subject to Clauses 5, 6 and 7 below, when this Contract starts, all your personnel who may perform Contract Work are Approved Personnel.
2. Subject to Clauses 4, 5, 6 and 7 below, any further personnel whom you engage to carry out Contract Work are Approved Personnel,
3. At our request, you must, within five days, deliver to us a Contract Report Form, listing all your personnel and showing Approved Personnel and providing information about their involvement in Contract Work.

Must any recruitment procedures be followed?

4. Before you engage any new personnel, you must carry out appropriate enquiries to ensure that they are suitable (e.g. where appropriate check the Criminal records Bureau and The Law Society) and, if they are not, must not appoint them.

Must Personnel consent to our obtaining status reports

5. To be approved, your personnel must consent to our obtaining status reports on them e.g. from The Law Society.

When might we not approve personnel?

6. We reserve the right to withhold approval of, to grant only temporary approval of, to withdraw approval of, and to substitute only qualified approval of, any individual members of your personnel. We will not exercise this right unless we reasonably believe that the relevant person is not suitable to perform Contract Work.

Who are not approved personnel?

7. Any individual who is excluded from performing Contract Work by:
 - (a) a contract sanction applied by us; or
 - (b) an order or direction of a court, tribunal, professional body or regulator with power to do so;cannot become and, on the occurrence of any of the events in (a) or (b) above, ceases to be, Approved Personnel.

What if any Contract Work performed by other personnel?

8. If personnel, who are not Approved Personnel, perform any Contract Work, you may not submit a Claim for it and it is not payable by us.

Supervisors – from SQM (and say is one if you approve)

Supervision requirements

Training requirements

If any Supervisor ceases to meet the Supervisor requirements or fails to perform their duties as a Supervisor in a timely manner and with all reasonable skill, care and diligence, you must cancel their status as a Supervisor.

G - Key Performance Indicator Annex
(Clause 4)

KPI Number	The Key Performance Standards that you must meet in performing Contract Work	
1	Independent Peer Review	Rating of 3
2	Success Rate	40% (Min)
3	Assessment Reduction	5% (Max)
4	Fixed Fee Margin (Actual costs not to be less than fixed fees by any more than)	20%

NOTES ON THE KEY PERFORMANCE INDICATORS

Independent Peer Review

Your Contract Work must receive either Rating 1, Rating 2 or Rating 3 as determined by the Independent Peer Review process.

If your Contract Work receives a Rating 4, as determined by that Independent Peer Review process, this is a breach of Contract.

If your Contract Work receives Rating 5, as determined by that Independent Peer Review process, this is a Fundamental Breach.

Success Rate, Assessment Reduction and Fixed Fee Margin

Until further notice, we will not treat a failure to meet any of the specified standards for KPIs Nos. 2 to 4 (inclusive) as a breach of Contract, in itself. Instead, we will use the KPIs as measures that may cause us to raise enquiries with you or further monitoring of your performance.

Preferred Supplier KPIs	
N.B. To qualify as a Preferred Supplier and to be eligible for a contract extension and to bid for a new Unified Contract (when this Contract expires) you must meet or exceed the Preferred Supplier KPI standards.	
Preferred Supplier KPI Standard	Independent Peer Review Rating of 1 or 2

H - LSC Consultation Code Annex (Clause 7)

If we wish to amend any Contract Document, we will clearly describe the amendment why we wish to make it.

If a proposed amendment to this Contract affects only one Supplier, we will consult with that Supplier. Otherwise, we will consult with the Consultative Bodies.

Unless we consider that there is an urgent need to make the amendment, consultation with the Consultative Bodies need last no longer than six weeks.

If we consider that there is an urgent need to make the amendment, consultation with the Consultative Bodies need last no longer than 21 days.

We wish to use each consultation period as a period during which consultation actually takes place and will be willing to engage with the Consultative Bodies during this period to ensure that we are able to take full account of their views.

After consultation, we will explain what decisions we have made, and why.

I - Fundamental Breach Annex (Clause 19)

1. Fundamental Breaches of this Contract include:
 - (a) a breach of a provision that is so important that breach of it justifies termination (Fundamental Breach A);
 - (b) more than one breach which, together, are so serious that termination is justified (Fundamental Breach B);
 - (c) one or more breaches, from which we may reasonably infer that performance will continue to be so substandard as to justify termination (Fundamental Breach C); and
 - (d) dishonesty (Fundamental Breach D).

Fundamental Breach A: Examples of a breach of a provision that is so important that breach of it justifies termination

Example 1

2. Clause 2 of the Contract Standard Terms provides that the Contract is personal to the Supplier, who must not assign it or sub-contract etc.
3. Any breach of this provision is a Fundamental Breach. We must be able to select our Suppliers after carrying out pre-contract enquiries and audits.

Example 2

4. Clause 3 of the Contract Standard Terms requires Suppliers to assist us in carrying out compliance audits e.g. by giving us access to their premises and by providing documents.
5. Any **refusal** of access, or **refusal** to provide documents, is a Fundamental Breach. Legal services under the Contract are not provided to us, so we are not able to assess them as they are provided. We rely on auditing to determine whether what we have paid for is being provided as required, and at the appropriate cost and to the appropriate standard.

Example 3

6. Where we have identified a failure by a Supplier to implement, or operate, any of the equality and diversity provisions set out in Clause 2 the Contract Standard Terms or in the Equality and Diversity Annex and, having given notice requiring the Supplier to correct the failure, they have failed to do so to our satisfaction.

Fundamental Breach B: Examples of more than one breach which, together, are so serious that termination is justified.

7. Termination for Fundamental Breach B will normally be justified in such cases even if the LSC Contractor takes corrective action, such as replacing relevant personnel.
8. There may be occasions when there has been a serious breach that, alone, would not justify termination but where there are also other breaches e.g. breaches of the SQM. In these circumstances the Commission may look at all the breaches together and

may terminate if the other breaches “tip the scales” so that, considering the breaches overall, termination is justified.

Example 1

9. Clause 4.2 of the Contract Standard Terms provides that “You must perform all Contract Work in a timely manner and with all reasonable skill, care and diligence. Clause 4.3 requires the standard of Contract Work to meet or exceed the standard required by any Independent Peer Review rating (specified in the Performance Indicator Annex). A rating of 5 (the lowest rating) is a Fundamental Breach.
10. Where evidence shows only occasional lapses below the required standard, or where the peer review rating is 4, we will normally either serve a Warning Notice or write to the Supplier outlining our concerns.

Example 2

11. Clause 4.7 of the Contract Standard Terms provides that “you must record all data and information required by this Contract promptly and accurately. You must report all data and information required by this Contract promptly and accurately”
12. Legal services under the Contract are not provided to us, so we are not able to assess them as they are provided. We rely on the prompt and accurate recording and reporting of data and information to determine whether what we have paid for is being provided as required and at the appropriate cost and to the appropriate standard.

Example 3

13. Paragraph **2.14** of the Contract Specification provides “... you may only claim for work that has been reasonably done in accordance with the provisions of the Contract and that is supported by appropriate evidence on file....”
14. Through auditing, we identified some Suppliers that were significantly over-claiming. We accept that, in some cases, there may be legitimate differences of opinion as to the amount properly payable for a case. However, for these disputes, the Contract provides rights of appeal, concluding with consideration by the Costs Assessor, membership of which is drawn from a panel of independent solicitors.
15. Any Supplier who is assessed as over-claiming by 20% or more will be sent a Warning Notice. There may also be circumstances where over-claiming by 10% to 20% will result in the issue of a notice, for example where there are persistent claims for an item that is not permitted under the Contract. Such over-claiming is not acceptable but it is right that there should be an opportunity for corrective action. However, if the Supplier is assessed as over-claiming by 20% or more a second time, termination will normally follow.
16. We have identified a very small number of Suppliers over-claiming by significantly in excess of 20%. Sometimes this is confined to one Category of Law. Sometimes, it extends across more than one. Generally (but not always) we have found, at the same time, that the quality of Contract Work is poor. Such over-claiming is a Fundamental Breach.

Fundamental Breach C: Examples of one or more breaches, from which we may reasonably infer that performance will continue to be so substandard as to justify termination.

17. There are less serious breaches than those described as Fundamental Breach B but which may justify termination on this ground, because the continued recurrence indicates that they, or similar, breaches are likely to continue to recur. If so, we may

reasonably infer that performance will continue to be so substandard as to justify termination.

18. In these circumstances, if a Supplier has already taken corrective action, such as replacing relevant personnel, we will take that into account in deciding whether there remains an inference that performance will continue to be so substandard as to justify termination.

Fundamental Breach D: Dishonesty

19. Dishonesty would normally justify termination of the contract under the common law. However, dishonesty is also a Fundamental Breach.
20. On some occasions, we have found case files for which backdated, timed attendance notes have been created prior to an audit by personnel who did not have any real evidence as to whether an attendance had taken place or, if so, how long it took and who, therefore, were unable honestly to create them. Such attendance notes are false and such behaviour is dishonest and, unless the instances are isolated, will normally result in termination.
21. We have also found case files that have had backdated letters placed on them e.g. client care letters to, falsely, give the impression that the file had been properly managed. Such behaviour is also dishonest and, unless the instances are isolated, may result in termination.

J - TUPE ANNEX (Clause 21)

Definitions

1 In this TUPE Annex:

New LSC Partner means a LSC Partner selected by us to carry out work, similar to the Relevant Contract Work, on termination or expiry of this Contract (or part of it) or us (if we start to provide the Relevant Contract Work);

Relevant Contract Work means the Contract Work which, by virtue of the termination of this Contract (or part of it) you are no longer able to perform;

Termination Date means the date of termination of this Contract (or part of it);

Transfer Date means the date on which a New LSC Partner starts to perform Relevant Contract Work;

TUPE means the Transfer of Undertakings (Protection of Employment) Regulations 2006;

TUPE Employees means all personnel assigned to Relevant Contract Work within the meaning of regulation 4(1) of TUPE.

Application of TUPE

2 You and we acknowledge and agree that TUPE may apply to this Contract and that, on the termination of this Contract (or part of it), a change in identity of the party performing Relevant Contract Work may constitute a relevant transfer for the purposes of TUPE.

TUPE Compliance on Termination

3 You must, within 7 days of our written request, give us and any third party nominated by us any information we may require about your personnel for example:

(a) Full details of all your personnel engaged in Relevant Contract Work who might be the subject of a transfer under TUPE including e.g. details of terms and conditions of employment and benefits (including e.g. any bonus, incentive, profit sharing scheme, employee share scheme and life, accident and health insurance), working arrangements, outstanding obligations to increase remuneration, recognition agreements and redundancy schemes (including all those persons temporarily absent from work for any reason); and

(b) Copies of all personnel and employment records (including without limitation National Insurance and PAYE records), employment contracts and statements of terms and conditions of employment and disciplinary records relating to your personnel engaged in Relevant Contract Work who might be the subject of a transfer under TUPE.

- 4 You warrant the accuracy of all the information provided under clause 3 (above) and authorise us to use it as we may consider necessary and for informing any New LSC Partner or prospective New LSC Partner.
- 5 Subject to Clause 6 (below), within 12 months prior to the expiry of this Contract and when either party gives notice of termination of this Contract (or any part of it), you are prohibited from:
 - (a) Making any changes that would materially affect the liability of any New LSC Partner (or us) under TUPE;
 - (b) Terminating the employment of any TUPE Employee unlawfully or unfairly within the meaning of the Employment Rights Act 1996; and from
 - (c) Acting in any way that is unlawful.
- 6 You may make changes within the scope of Clause 5(a) (above) if they are necessary for your effective performance under, and compliance with, this Contract. However, where you do make any such change, the presumption shall be that the change was not necessary for your effective performance under, and compliance with, this Contract and the onus shall be on you to demonstrate (on the balance of probabilities) that it was.
- 7 Examples of changes within the scope of Clause 5(a) (above) are:
 - (a) Terminating the employment of any TUPE Employees;
 - (b) Altering the terms and conditions of employment of any of the TUPE Employees;
 - (c) Recruiting employees to perform Relevant Contract Work;
 - (d) Reorganising the way in which you perform Relevant Contract Work, relocating the TUPE Employees or re-assigning their duties; and
 - (e) Making any promises that give rise to any benefits, or offering new terms.
- 8 You shall be responsible for all remuneration, benefits, entitlements and outgoings in respect of the TUPE Employees, including without limitation all wages, holiday pay, bonuses, commissions, payments of PAYE, National Insurance contributions, pension contributions and otherwise up to the Transfer Date.
- 9 You will keep us and the New LSC Partner indemnified against all losses, claims, damages, other liabilities, costs and expenses (including reasonable legal costs and disbursements) arising directly from:
 - (a) Any of your acts or omissions (and any acts or omissions of any sub-contractor of yours) prior to the Transfer Date; and
 - (b) Any liability in relation to any person who is not a TUPE Employee but who has been or is an employee of yours (or of a sub-contractor of yours) and which becomes our liability or a liability of a New LSC Partner by reason of the operation of TUPE.

- 10 You must indemnify us and the New LSC Partner against any action or claim by any appropriate representative (as defined in TUPE) or employee or former employee of yours (or of any sub-contractor of yours), arising out of your failure (or the failure of any such sub-contractor) to inform and consult with any appropriate representative or employee with regard to affected employees (as defined in TUPE) except to the extent that any such action or claim (or any part of such action or claim) arises from any failure to comply with Regulation 13(4) of TUPE.

Race Relations (Amendment) Act 2000

- 11 You warrant that you will comply with all our relevant obligations under the Race Relations (Amendment) Act 2000 (and any code of practice issued under it) and will indemnify us for any loss, expense or damage incurred as a result of any breach of such obligations.
- 12 You agree that you will provide us with all the information we reasonably request to allow us to monitor compliance with the Race Relations (Amendment) Act 2000 (and any code of practice issued under it) and to discharge our own obligations.

Disability Discrimination Act 2005

- 13 You warrant that you will comply with all our relevant obligations under the Disability Discrimination Act 2005 (and any code of practice issued under it) and will indemnify us for any loss, expense or damage incurred as a result of any breach of such obligations.
- 14 You agree that you will provide us with all the information we reasonably request to allow us to monitor compliance with the Disability Discrimination Act 2005 (and any code of practice issued under it) and to discharge our own obligations.

Equality Act 2006

- 15 You warrant that you will comply with all our relevant obligations under the Equality Act 2006 (and any code of practice issued under it) and will indemnify us for any loss, expense or damage incurred as a result of any breach of such obligations.
- 16 You agree that you will provide us with all the information we reasonably request to allow us to monitor compliance with the Equality Act 2006 (and any code of practice issued under it) and to discharge our own obligations.

Sub-Contractors

- 17 If you enter into any sub-contract in connection with this Contract, you must impose obligations on the sub-contractor in the same terms as those imposed on you pursuant to this TUPE Annex and ensure that the sub-contractor complies with them.
- 18 You must indemnify us and keep us indemnified, in full, from and against all direct, indirect or consequential liability, loss, damages, injury, claims, costs and expenses (including legal expenses) awarded against or incurred or paid by us as a result of, or in connection with, any failure on the part of the sub-contractor to comply with such terms.