

General Unified Contract Civil Specification

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Definitions

The definitions set out in the Standard Terms apply to this Specification

- “Assessor” means a person appointed by us to assess Suppliers’ Claims
- “Child” means a person under 16.
- “CMRF” means our Consolidated Matter Report Form
- “Costs Limitation” means the limitation setting out our maximum liability as to costs (including profit costs, disbursements and Counsels’ fees but excluding VAT and the costs of assessment) imposed upon any Licensed Work Certificate by the Director
- “Civil Procedure Rules” means the Civil Procedure Rules 1998 as amended or replaced from time to time
- “Emergency Certificate” is a Certificate for Emergency Representation “Emergency Representation” has the meaning set out in Section 5 of Part A of the Funding Code: Criteria
- “Exceptional Case” has the meaning set out in paragraph 6.23
- “Exclusive Contracting” means work which cannot be carried out by Suppliers unless they have express authority from us to do so in their Schedule, as set out in the Category Specific Provisions
- “Family Private Law” means []
- “Family Public Law” means []
- “Full Representation” has the meaning set out in the Funding Code
- “Fund” shall mean the Legal Aid Fund
- “Funding Code Criteria” means the criteria set out in the Funding Code for deciding whether to fund or to continue to fund services, including the General Criteria currently at Part A, Section 4 of the Funding Code and any criteria applicable to various Levels of Service currently at Part A, Section 5 of the Funding Code which may be relevant in the context.
- “Graduated Fee” means a fee paid in the circumstances set out at paragraph 6.13 at the levels set in Part B
- “Immigration Asylum” means any work which is (a) within the Immigration Category of Law and (b) involves a claim that it would be contrary to the United Kingdom’s obligations under the Refugee Convention under Article 3 of the Human Rights Convention for the claimant to be removed from, or required to leave, the United Kingdom
- “Immigration Non Asylum” means any work which is within the Immigration Category of Law and does not constitute Immigration Asylum work.
- “Investigative Help” has the meaning set out in the Funding Code
- “Levels of Service” has the meaning set out in the Funding Code
- “Patient” means a patient within the term of the Mental Health Act 1983 (as amended)
- “Section 31 Cases” has the meaning set out in the Funding Code
- “Standard Fee” means a fee paid in the circumstances set out at paragraph 6.13 at the levels set in Part B

Introduction to the working of the Scheme

We set out here a brief outline of the main features of the Scheme. This outline is for information purposes only and does not in any way amend or detract from the provisions of the Funding Code, which set out the definition and scope of all funded Levels of Service (at Section 1 of the Funding Code Criteria), and the way different Levels of Service are funded (Part A of the Funding Code Procedures).

Except for work in the Crime Category of Work, Contract Work is either:

- Controlled Work; or
- Licensed Work

In Non Family cases there are 3 levels of service for Controlled Work:

- Legal Help
- Help at Court
- Controlled Legal Representation (or “CLR”) which is Legal Representation:
 - Before a Mental Health Review Tribunal;
 - Before the Asylum and Immigration Tribunal;
 - Before the High Court in relation to applications under section 103A of the Nationality, Immigration and Asylum Act 2002; or
 - Provided by a Community Legal Advice Centre or Network and authorised under a separate contract to be funded as Controlled Work.

In Family cases Controlled Work covers:

- Family Help
- Legal Representation provided by a Community Legal Advice Centre or Network and authorised under a separate contract to be funded as Controlled Work

For Controlled Work the decisions to provide services are generally taken by you on our behalf, and this Contract controls the number of cases you may start through the allocation in the Schedule of a certain number of Matter Starts in each Category of Law. You have our authority to commence Legal Help and Help at Court Matter Starts without further permission from us, provided you have sufficient Matter Starts available.

For all areas of work Licensed Work covers all Legal Representation other than CLR or services funded by Individual Case Contracts. In Non Family cases Legal Representation can take the form of either Investigative Help or Full Representation.

This Contract operates as a license for you to undertake Licensed Work, normally subject to us approving your Client’s application. For Licensed Work most decisions to allow you to take on a case and provide publicly funded services are taken by us through our Regional Offices but you also have important powers such as the power to grant funding yourself in urgent cases.

Transitional Provisions:

The terms of this Contract shall apply to all Matters commenced by you after the Start Date. For the purposes of this paragraph you “commence” a Matter when you complete an application for Contract Work. You may continue to perform Contract Work on any Matter Start properly started under any previous Contract. These Matter Starts will be governed from the Start Date by the terms of this Contract, including this Specification, but the rates of payment and terms regarding payment of disbursements and the Statutory Charge will be paid according to the provisions of the previous Contract.

Section 1 General rules for Suppliers

Applying the Funding Code and Regulations

1.1 When providing any Contract Work you must apply the Funding Code and the Access to Justice Legislation.

Providing information

1.2 You may be required by us to provide specified information to Clients or to other persons contacting your organisation in such form as we may direct.

1.3 The provision of such information to Clients will not be claimable by you as part of the costs of Contract Work.

1.4 If you have provided Controlled Work to a Client and that Client chooses to instruct another Supplier with regard to the same matter or issue, you are required, on request from the new Supplier and only with the consent of the Client (evidence of which may be supplied by the new Supplier), to give to the new Supplier the Client's file, or a copy, and reasons for the termination of the retainer, as soon as practicable and in any event, no later than seven days from the date of the request.

Misrepresentation regarding Contract Work

1.5 If it comes to your attention that a Client has:

- (a) wilfully failed to provide information relevant to your decision to carry out Contract Work on their behalf or our decision to grant a Certificate for Licensed Work; or
- (b) has knowingly made a false statement or false representation

and after this failure or false statement or false representation has occurred, you have carried out Contract Work on the Client's behalf, then you should report the matter forthwith to the relevant Director.

1.6 The application form signed by the Client will incorporate an agreement by the Client to repay to us any costs we pay out to you in the matter in the event of the Client having withheld or misrepresented information with the intention of appearing to qualify for Contract Work.

Status of Category specific provisions

1.7 Where there is any conflict between the provisions in Sections 1 – 8 of Part A of this Specification (which apply generally to Contract Work, Controlled Work or Licensed Work) and the Category specific provisions in Section 9 of Part A, the Category specific provisions shall have precedence over the general provisions.

Section 2. Applications for Contract Work

Funding Code Criteria

2.1 You must apply the applicable Funding Code criteria to all Contract Work you undertake. These criteria must be applied both:

- (a) when the application by the prospective Client is made; and
- (b) as and when further work is provided throughout the matter.

2.2 When applying the Funding Code Criteria you are required to have regard to:

- (a) the Funding Code Guidance at Part C of the Funding Code Manual; and
- (b) in respect of Controlled Work, the additional guidance on the application of the Funding Code to Controlled Work at Part C of this Specification

and you must refuse to act in respect on any Matter which does not meet the criteria – see Funding Code provision B8 below.

Financial eligibility

Controlled Work

Relevant provisions from the Funding Code

B6 Assessment of Means

- 6.1 Controlled Work shall only be carried out on behalf of a client who has been assessed as financially eligible in accordance with regulations and any Guidance thereon.
- 6.2 Subject to Guidance, satisfactory evidence in support of the client's information as to their means must be provided to the supplier before financial eligibility is assessed.
- 6.3 This Rule does not apply to services which, under the regulations, are available without reference to the client's financial resources.

2.3 The rates for financial eligibility are those set out in the Community Legal Service (Financial) Regulations 2000. In making the assessment referred to in the Funding Code you are required to have regard to the Financial Eligibility Guidance in Part F of Volume 2 of this Manual.

2.4 Satisfactory evidence in support of the prospective Client's information as to their means must be provided to you before you assess financial eligibility. The evidence (or a copy) must be retained on the file.

2.5 You may assess the prospective Client's means without the accompanying evidence where it is not practicable to obtain it before commencing the Controlled Work, or where pre signature telephone advice is given. You must require the Client to provide the evidence as soon as practicable, unless exceptionally the personal circumstances of the Client (such as the Client's age, mental disability or homelessness) make it impracticable for the evidence to be supplied. If satisfactory evidence of the Client's financial eligibility is not subsequently supplied, or if the evidence shows that the Client is not financially eligible, you may claim the work carried out as a Matter Start provided that

- (a) you have acted reasonably in undertaking work before assessing financial eligibility;
- (b) you have acted reasonably in assessing financial eligibility; and
- (c) if the work is remunerated at Hourly Rates then you do not claim more than two hours' work. We shall monitor the number of your cases that fall into this category and if this is high we may carry out investigations and take appropriate action.

2.6 The Funding Code provision above and Paragraphs 2.3 to 2.6 do not apply to the following work in the Mental Health category:

- (a) Legal Help work for detained Patients; or
- (b) Controlled Legal Representation in Mental Health proceedings before a Mental Health Review Tribunal

as there are no financial eligibility criteria in respect of this work.

2.7 When assessing the means of a Child or Patient, the appropriate means which you must take into account when assessing means are:

- (a) those of the Child/Patient and,

- (b) in appropriate cases, those persons who have care and control or are liable to maintain him/her or usually contribute substantially to his/her maintenance.

See the Community Legal Service (Financial) Regulations 2000, Regulation 11 (3) in relation to means assessment of Children.

2.8 When assessing means where you accept an application for Controlled Work directly from a Child under paragraph Funding Code provision B4 below you must consider whether it is just and equitable not to aggregate the Child's means with those of the person liable to maintain him. The presumption is that there should be aggregation but you can decide not to aggregate (and assess only the Child's means) if, having regard to all the circumstances, including the age and resources of the Child and to any conflict of interest, you reasonably consider it just and equitable to do so. Non-aggregation is more likely to be justified where:

- (a) there is a conflict between the Child and the person liable to maintain him/her; and/or
- (b) where the Child is older.

Licensed Work

2.9 We shall assess Clients' means and determine their financial eligibility in respect of applications for Licensed Work in accordance with the applicable Regulations except where you are exercising your power to determine Licensed Work applications in accordance with paragraph 4.5 below, when it is your responsibility.

2.10 Except in relation to Emergency Representation the assessment referred to at paragraph 2.9 above must be carried out before you commence work. You may commence Emergency Representation before the Client's means have been assessed but only if you reasonably consider that sufficient information has been provided to you to demonstrate that the Client is likely to be financially eligible having regard to the Guidance in Part D of Funding Code Manual, Volume 3.

Application procedures - Controlled Work

Relevant provisions of the Funding Code

B2 Applications

- 2.1 Unless otherwise specified by the Commission, all applications for Controlled Work shall be made to the supplier.
- 2.2 Except as otherwise provided in these Procedures or in the contract, Controlled Work may not be provided unless the client has attended the supplier in person and completed an application on a form approved by the Commission.

2.11 The assessment of means section and the Client's details must be fully completed and the form signed by the Client in your presence before the Controlled Work is commenced.

2.12 The completed form must be kept by you on the file. We may prescribe different forms for different Categories of Law or types of case or Client and for different Levels of Service. We may amend the form or forms from time to time upon giving reasonable notice to you.

2.13 Help at Court may be given to a Client who is in receipt of Legal Help without a further application being made.

Postal Applications

Relevant provisions from the Funding Code

B7 Postal Applications

- 7.1 Subject to paragraph 2, an application for Controlled Work may be accepted by post where there is good reason to do so
- 7.2 Applications by post may not be accepted where the client is resident outside the European Union and:
- (a) such residence is purely temporary and the client can without serious disadvantage delay the application until they have returned to the European Union, or
 - (b) the services could be applied for on the same matter by a person resident in the European Union, or
 - (c) it is otherwise unreasonable to accept the application.

2.14 The Funding Code provision B7 above does not apply to Help at Court

2.15 "Good reason" for the purposes of purposes of the Funding Code provision above will be where:

- (a) the Client is in custody or detention, for example in a prison, police station, immigration detention centre or mental hospital;
- (b) the Client is in hospital; or
- (c) a home visit is justified because the Client is elderly, ill or disabled or is caring for another person who is elderly, ill or disabled and in either case the Client is as a result unable to travel to your office.

A postal application is unlikely to be justified if the incapacity is temporary and the provision of Controlled Work could be postponed without prejudice to the Client.

Attendance on a Client's Behalf

Relevant provisions from the Funding Code

B3 Attendance on a Client's Behalf

- 3.1 Where a client cannot for good reason attend on a supplier in order to apply for Controlled Work, that client may authorise another person ("the authorised person") to attend on their behalf.
- 3.2 An application for Controlled Work may not be accepted from an authorised person on behalf of a client unless that client is, at the time when the authorisation is given, either present in or resides in the European Union.

2.16 For the purposes of the Funding Code provision above "good reason" is as defined in paragraph 2.15 above.

2.17 The authorised person must provide you with the information and satisfactory evidence in support necessary to assess the Client's financial eligibility.

2.18 Where Legal Help is to be provided in relation to a will, then the authorised person must supply you with the information necessary to comply with this Section.

2.19 No partner, member, associate, shareholder or employee of your organisation (or family member of such partner, member, associate, shareholder or employee) may act as an authorised person for the purposes of this Paragraph.

Telephone Advice

2.20 You may give advice to a Client over the telephone before that Client has signed the application form where:

- (a) the Client cannot for good reason attend your office; and
- (b) the Client meets the criteria for the provision of Legal Help (including financial eligibility)

and may make a Claim for this work provided that Client subsequently signs the application form.

2.21 For the purposes of this Paragraph "good reason" is as defined in paragraph 2.15 above. The reason relied upon should always be noted by you and kept on the file.

2.22 The Client does not have to attend your office to sign the application form after having been given the telephone advice. You may send the form to your Client, after you have given the advice, for signature and return.

Previous Controlled Work

Relevant provisions from the Funding Code

B9 Previous Legal Help

Unless permitted to do so under a contract Legal Help may not be provided to a client who has received Legal Help for the same matter from another supplier within the six months preceding the application, except where:

- (a) there is a gap in time and circumstances have changed materially between the first and second occasions when the Legal Help was sought, e.g. a reconciliation which has failed; or
- (b) the client has reasonable cause to be dissatisfied with the service provided by the first supplier; or
- (c) the client has moved a distance away from the first supplier and communication is difficult; or
- (d) the first supplier has confirmed that they will be making no claim for payment for the Legal Help.

2.23 You are required to establish whether the Funding Code provision above applies by making reasonable enquiries including (but not limited to);

- (a) asking the Client;
- (b) examining any documentation made available by the Client for reference to another Supplier; and
- (c) considering the length of time that the issue or matter has been in existence and any steps in the issue or matter which have occurred

If you fail to make reasonable enquiries in this situation any Claim for Controlled Work in relation to this matter will be disallowed (even if in fact the Client has not received Controlled Work from a previous Supplier).

2.24 Where Controlled Work has been given for the same matter from another Supplier within the six months preceding the application, you must obtain the consent of the Client to contact the previous Supplier on his/her behalf as soon as practicable in writing to:

- (a) Confirm the reasons for the termination of retainer.

- (b) Request a transfer or copy of the file.

In the event that the Client refuses to give you consent to contact his/her previous Supplier, then you may not provide Controlled Work for that Client and may not make any Claim for payment in respect of any such work under this Contract.

2.25 In circumstances when you have made a request for a Client's file under paragraph 2.24 above, you may not start work for that Client until you have received the file and considered its contents unless it is absolutely necessary to take steps immediately to protect the Client's position or meet a Court deadline. If you undertake Controlled Work in a situation of urgency and then, having received the file, realise that you are not entitled to exercise your Devolved Power under Funding Code provision B9 to act for that Client, you must cease acting for that Client immediately, but may still make a Claim for the work you have undertaken under Part 6 of this Specification. We shall monitor the number of your cases that fall into this category and if this is high we may carry out investigations and take appropriate action.

2.26 The Funding Code provision above also applies to Help at Court and Controlled Legal Representation

2.27 For the purposes of the Funding Code provision B9 above 'reasonable cause' includes situations where

- (a) the Client is justified in being dissatisfied with the service provided by the previous Supplier; or
- (b) where an ongoing matter has been referred by another Supplier;

and does not include situations where the Client merely finds the first advice unpalatable and wants a second opinion. If 2.27(a) applies you must provide the Client with assistance in setting out his/her complaint in writing to the Law Society, the OISC, the Advice Services Alliance or any appropriate regulator of professional standards of the former Supplier. A copy of the complaint should also be provided to our Regional Office.

2.28 When providing Controlled Work in the circumstances set out in Funding Code provision B9 you should record the justification for doing so on the file. Generally, changes to a third or subsequent supplier will require greater justification.

2.29 You should have regard to any Contract Work already carried out on the matter by the previous solicitor or contracted supplier and ensure that the work you carry out does not involve unnecessary duplication.

2.30 The Funding Code provision above does not apply if the Client changes solicitor within the same organisation, or the solicitor changes organisation and continues to advise the Client. In these circumstances there will not have been Controlled Work from 'another Supplier' for the purposes of Funding Code provision B9. However, this Section will apply if the Client changes Suppliers and the same solicitor does not continue to provide Legal Help to the Client.

2.31 Where Controlled Work is provided in contravention of Funding Code provision B9 above, then the work provided cannot be claimed as Contract Work except under paragraph 2.25.

Application on behalf of a Child or Patient

Relevant provision from the Funding Code:

B5 Application on behalf of a Child or Patient

- 5.1 An application for Controlled Work may only be accepted on behalf of a child or patient from:
- (a) in the case of a child his parent or guardian or other person in whose care he or she is; or
 - (b) in the case of a patient, the receiver appointed under Part VII of the Mental Health Act 1983, or the patient's nearest relative or guardian within the meaning of Part II of the Mental Health Act 1983; or
 - (c) in the case of a child or patient, a person acting for the purposes of any proceedings as his or her litigation friend, next friend, or guardian ad litem; or
 - (d) in the case of a child or patient, any other person where there is good reason why none of the persons specified in paragraphs (a)–(c) above can make the application.
- 5.2 No application may be accepted under this Rule if made by a member, associate or employee of the supplier.

2.32 "Good reason" for the purposes of the Funding Code provision above includes, but is not limited to, a conflict of interest.

2.33 You may only accept an application from an "other person" in relation to the Funding Code provision above if:

- (a) there is sufficient connection between the Child or Patient and the other person to ensure that the other person is likely to act responsibly in the interests of the Child/Patient; and
- (b) the other person has sufficient knowledge of the Child or Patient, the problem and the Child's or Patient's financial circumstances to give proper instructions to you,

2.34 Paragraph 5.2 of the Funding Code set out above shall, for the purposes of this Contract, also include a director, partner, or shareholder of your organisation.

2.35 Where Controlled Work is carried out under Funding Code paragraph B5 above, the application will be in the name of the Child/Patient but signed on his/her behalf. The form should be completed in the name of the Child/Patient but signed by the person who is applying on behalf of the Child/Patient with an annotation to that effect.

Applications directly from a Child

Relevant provisions from Funding Code:

B4 Application from a Child

An application for Controlled Work may not be accepted from a child unless:

- (a) the Controlled Work is in relation to proceedings which the child is entitled to begin, prosecute or defend without a litigation friend, next friend, or guardian ad litem; or
- (b) there is good reason why any of the persons referred to in Rule 5 below cannot seek advice on the child's behalf and the child is old enough to give instructions and understands the nature of the Controlled Work.

2.37 Good reason for the purposes of Funding Code provision B4 above will include situations where there is a conflict of interest

2.38 Where Controlled Work is provided directly to a Child under the Funding Code provision above the Child will sign the application form him/herself.

Controlled Legal Representation

2.39 You should grant Controlled Legal Representation by signing the "Declaration and Grant" section on a properly completed application form. The grant will take effect from the date of such signature. The "Declaration and Grant" must only be signed by an experienced adviser, who is a member of or employee of your firm or by your Supervisor in the relevant Category of Law.

Application procedures and Licensed Work

2.40 Applications for Licensed Work are usually processed by us, but you should not make an application on behalf of a Potential Client unless you have capacity under your allocation of Licensed Work Cases in your Office Schedule. The provisions for making these applications are set out The Funding Code, Volume 3 of the Manual, Part B "The Funding Code: Procedures", Part C "Certificated Work". You are required to comply with these provisions when:

- (a) you apply to use for Legal Representation on behalf of your Client; and
- (b) you process applications for Licensed Work under paragraph 4.5 below. .

Refusing applications and stopping work

Refusal of Contract Work for failure to meet Funding Code Criteria

Relevant provisions in Funding Code:

B8 Refusal of Controlled Work – Reasons

Where an application for Controlled Work is refused on the basis that the Funding Code criteria are not satisfied or a supplier ceases to provide Controlled Work on the basis that the Funding Code criteria are no longer satisfied the supplier shall give the client brief reasons for such refusal and where relevant, shall provide the client with information as to alternative ways of obtaining or funding services.

2.41 For the purposes of the Funding Code provision above, information as to alternative ways of obtaining or funding services will include information on conditional fees, privately funded services or services offered by voluntary organisations. The provision of such information will not be claimable as Contract Work, but need only be provided where relevant to the particular matter.

2.42 Reasons need not be given in writing unless

- (a) requested by the Client; and
- (b) it is reasonable for you to provide written reasons.

Refusal of Contract Work for good cause

2.43 In addition to refusing Controlled Work for failure to meet the Funding Code Criteria you may for another good cause (such as where you are unable or unwilling to act for professional reasons, or an actual or potential conflict of interest)

- (a) refuse to accept an application for Contract Work; or
- (b) (i) in the case of Controlled Work having accepted an application, decline to carry out or continue to carry out work;

(ii) in the case of Licensed Work, either apply for discharge of the Certificate (if the Client consents) or request us to consider discharging the Certificate.

2.44 For the avoidance of doubt, “good cause” in paragraph 2.43 does not include any considerations regarding the level of any Standard or Graduated Fee you may be entitled to receive under this Contract for a complex or difficult Case in accordance with paragraph 2.46 below.

2.45 You may, if you think fit, refuse to disclose your reasons for doing so to the Client or person seeking Controlled Work on his behalf. You must however give the Director such information about such a refusal as he may require.

Refusing Contract Work on the basis of likely cost

2.46 With a payment regime based on Standard Fees and Graduated Fees there is a risk that suppliers will decline to take on more expensive cases because they will not recover their full

costs on that particular case. This is not permitted under this Contract. You may not refuse to undertake work which is within the scope of your Contract and which you have the appropriate skills and capacity to carry out because you believe that your costs are likely to exceed any Standard Fee or Graduated Fee you would be entitled to claim for that work.

Refusing Contract Work on discriminatory grounds

2.47 You must comply with the Law Society's Solicitors' Anti Discrimination Rules (whether or not you are a Solicitor's practice) when dealing with potential Clients and taking on work. You must not decline to take on work from potential Clients which is within the scope of your Contract and which you have the appropriate skills and capacity to carry out, on any grounds which directly or indirectly discriminate on the grounds of their sex, race, racial group, ethnic or national group, religion or belief, sexual discrimination or disability. In particular, you must not decline work because a potential Client's disability or ethnic origin will or may result in additional costs or disbursements being occurred compared with a client without that disability or from a different ethnic origin.

Controlled Work following refusal of Legal Representation

2.48 You must not provide or continue to provide Legal Help to the Client in relation to a matter where an application for Legal Representation has been made to us and refused, or where a certificate has been discharged or revoked, except in the circumstances set out below.

2.49 Where the refusal/discharge/recovation is:

- (a) on the merits; then you should cease to provide Legal Help, beyond brief advice to the Client as to the options;
- (b) on the availability of other funding; then you should cease to provide Legal Help;
- (c) on the basis of scope; you should cease to provide Legal Help. Further, if the matter was also outside the scope of Legal Help, you may not claim a Controlled Work Fee in relation to any Legal Help you have purported to provide in the matter;
- (c) on the basis that the nature of the proceedings are not such so as to make a grant of Legal Representation appropriate or that Help at Court is more appropriate; then you may continue to provide an appropriate level of Controlled Work, provided that the Paragraphs on provision on Controlled Work in this Specification are met.
- (d) on the basis that the application is premature; then you may continue to provide Legal Help under the same Matter Start subject to the application of the Funding Code Criteria ;
- (e) on the basis of financial eligibility; then it would normally not be reasonable to carry on providing Legal Help and you should consider whether the proper information was before you when determining the financial eligibility for Legal Help,

provided that in any case you may spend a reasonable period providing Legal Help in relation to any appeal or review.

2.50 Any provision of Legal Help in relation to a review of a refusal of a certificate will not be a separate Matter Start if you have previously provided Legal Help in relation to the case and you may not claim a separate Standard or Graduated Fee.

2.51 You may not provide Legal Help or further Legal Help to a Client who has been offered Legal Representation in relation to that matter but who has refused it.

Section 3: Scope of Controlled Work

3.1 You may undertake Controlled Work for Clients provided it falls within the scope of a Category of Law which you authorised to undertake in your Schedule, subject to:

- (a) any particular Funding Code criteria at Part A of the Funding Code applying to a particular level of services;
- (b) any limitations set out in your Schedule;
- (c) any areas of a Category of Law which are stated in the Category Specific provisions at Section 9 as being subject to Exclusive Contracting; and
- (d) the provisions of this Contract.

Help at Court

3.2 You may only provide Help at Court in relation to proceedings for which advocacy may be funded in accordance with directions under s.6(8) or paragraph 2 of schedule 2 to the Act. You may not provide Help at Court in relation to the Family Category of Law.

3.3 You must not, whilst Help at Court is being provided, be on the court record as acting for the Client because conducting litigation (within the meaning of the Courts and Legal Services Act 1990) is not included within the scope of Controlled Work. It will not be possible for you to appear in open court in High Court proceedings and any Help at Court in the High Court will be limited in effect to representation in relation to applications in chambers where mitigation is required.

3.4 Help at Court must not be used to bypass the more comprehensive criteria for Legal Representation. In cases where the Client wishes to bring a claim or has a legal defence to a claim brought, an application for Legal Representation would be the appropriate avenue, not the provision of Help at Court. Help at Court should not be used to argue an issue which either would not pass or has failed the test for Legal Representation on the basis of the prospects of success.

3.5 It is not appropriate to grant Help at Court in relation to a matter which is proceeding or likely to proceed in the Small Claims track, save in the following circumstances:

- (a) Where a case has not yet been allocated to the small claims track, but is within the small claims limits it may be appropriate to provide Help at Court at any allocation hearing ordered by the court where:
 - (i) the Client is a Child; or
 - (ii) the Client is prevented from adequately presenting their case personally by reason of a physical or mental disability or language difficulties; or
- (b) Where the matter has been allocated to the small claims track, and:
 - (i) there are exceptional circumstances which make the provision of Help at Court in the small claims track reasonable, and:
 - (ii) if the Client is the Claimant rather than the Defendant, the prospects of success and cost benefit are such that they satisfy the matrix set out below:
 - If prospects of success are 80% or more, likely damages must exceed likely costs;
 - If prospects of success are good 60%–80%, likely damages must exceed likely costs by a ratio of 2:1;
 - If prospects of success are moderate 50%–60%, likely damages must exceed likely costs by a ratio of 4:1.

3.6 "Costs" for the purposes of paragraph 3.5 above should be calculated on the basis of Hourly Rates as set out at Part B of this Specification, irrespective of whether you are entitled to claim a Standard Fee or Graduated Fee for Help at Court.

3.7 "Exceptional circumstances" for the purposes of paragraph 3.5 above would be cases involving violence, harassment or intimidation, where it would be inappropriate for the applicant to have to deal with the opponent in person without legal representation.

Controlled Legal Representation

3.8 You may undertake Controlled Legal Representation before

- (a) the Mental Health Review Tribunal in the Mental Health Category of Law;
- (b) before the Asylum and Immigration Tribunal and for review and reconsideration matters under section 103 of the NIA 2002 in the Immigration Category of Law

in accordance with the criteria in the Funding Code and the provisions in this Specification provided that your Contract Schedule permits you to carry out Controlled Work in the relevant Category of Law.

Relevant Provisions of the Funding Code:

B10 Grant of Controlled Legal Representation

If a supplier does not have the devolved power to grant Controlled Legal Representation an application for Controlled Legal Representation may be made to the Director on a form approved by the Commission.

B11 Review of refusal of Controlled Legal Representation

11.1 Where an application for Controlled Legal Representation is refused or a grant of Controlled Legal Representation is withdrawn by the supplier, the client may, seek a review of the supplier's decision by the Director and the Adjudicator.

11.2 The supplier shall advise the client of any right of review under this rule.

11.3 Where Controlled Legal Representation is refused or withdrawn by the Director, either under this rule or under Rule B10 above, the client may have that decision reviewed by the Adjudicator (unless the decision relates only to the client's financial eligibility).

11.4 A review by the Adjudicator under this rule shall operate in the same way (with necessary modifications) as a review of the refusal or withdrawal of Certificated Work under Part C of these Procedures.

11.5 This Rule does not apply in relation to proceedings under section 103A of the Nationality, Immigration and Asylum Act 2002.

Your power to commence Controlled Work

3.9 This Contract delegates to you the power to carry out the following actions on our behalf:

- (a) accept applications for Controlled Work directly from Clients, in compliance with the provisions on applications in Section 2 above;
- (b) commence Matter Starts, in compliance with the provisions in paragraphs 5.6 – 5.30 below; and
- (c) grant or refused Controlled Legal Representation in the circumstances set out in Funding Code provision B10 above.

3.10 You should exercise these powers in every appropriate case and these decision should not be referred to the Regional Office although advice may be sought in cases of difficulty or doubt. These powers must in all circumstances be exercised in accordance with the terms of this Contract.

3.11 We reserve the right to withdraw from you at our absolute discretion these some or all of these powers by giving notice to you as part of our day to day management of your Contract. We may do this in respect of all Categories of Law you undertake, some Categories of Law only, or certain sorts of Cases. We may do this in respect of a group of Suppliers or individual Suppliers. For the avoidance of doubt, this does not constitute a Contract Sanction. If we have removed your power under this paragraph, you are still authorised to carry out Controlled Work but should apply to us for prior authorisation before taking any of the actions set out at paragraph 3.9 above.

4. Scope of Licensed Work

Levels of Service

4.1 Licensed Work comprises two levels of service:

- (a) Investigative Help; and
- (b) Full Representation

4.2 The scope of these levels of service are set out in the Funding Code Criteria.

Undertaking Licensed Work

4.3 You may only perform Licensed Work:

- (a) provided you have capacity to undertake a Licensed Work case under your Office Schedule;
- (b) which is within the scope of the Funding Code Criteria (taking into account applicable guidance in the Funding Code);
- (c) which is covered by a current Certificate;
- (d) which is within a Category of Law of Work you are permitted to undertake under your Office Schedule;
- (e) which is not prohibited by any restriction in your Office Schedule; and
- (f) which is provided that you meet any additional requirement set out in the table below:

Category of Law/case	Additional requirement
Immigration	Supervisor in Immigration
Clinical Negligence	Supervisor in Clinical Negligence
Family	Supervisor in Family
Any case which falls in an overlap between a Category of Law set out above and another Category of Law	Supervisor in one of the overlapping Categories
Any case which falls into both the Public Category of Law and the Crime Category	Supervisor in Public Law or Supervisor in Crime
Any case concerning civil proceedings under the Proceeds of Crime Act 2002	Supervisor in any Civil Category of Law or Supervisor in Crime
All other Cases/Categories (including those on the Residual List)	Supervisor in any Civil Category of Law

4.4 You must comply with the Funding Code Procedures, Part C – Certificated Work, which cover the process for applying for a Certificate to undertake Licensed Work.

Your powers in respect of Licensed Work

4.5 Provided you have a Supervisor in the relevant Category of Law, this Contract delegates to you power to carry out the following actions on our behalf:

- (a) Grant or refuse an application for Emergency Representation;
- (b) Amend or refuse to amend a certificate for Emergency Representation;
- (c) Amend or refuse to amend a limitation on a certificate for Legal Representation (not including an Emergency Certificate); and
- (d) Any actions set out in the Category Specific Provisions set out at Section 9.

4.6 Your powers set out at paragraph 4.5 above are subject to the following:

(a) You do not have the power to grant, amend or refuse to amend an Emergency Certificate for a judicial or statutory review (or any other proceeding considered under section 7 of the Funding Code) in an immigration matter unless we have specifically granted you this power in writing; and

(b) You do not have the power to grant or amend an application on the ground that the case has a significant wider public interest. Decisions on public interest are taken by the Commission (where necessary after referral to the Public Interest Advisory Panel);

(c) We reserve the right to withdraw at our absolute discretion these some or all of these powers from you by giving notice to you in respect of all Categories of Law you undertake, some Categories of Law only, or certain sorts of Cases as part of our day to day management of your Contract. We may do this in respect of a group of Suppliers or individual Suppliers. For the avoidance of doubt, this does not constitute a Contract Sanction. If we have removed your power under this paragraph, you should apply to us for a Certificate for Licensed Work in the usual way rather than exercising any of the powers set out at paragraph 4.5 above.

4.7 You are required to comply with guidance on the exercise of devolved powers in Licensed Work contained in the "Funding Code Decision Making Guidance" in Part C of Volume 3 of the LSC Manual as follows:

(a) Grant or refuse an application for Emergency Representation - guidance in Volume 3 of the Manual.

(b) Amend or refuse to amend a certificate for Emergency Representation - guidance in Volume 3 of the Manual.

(c) Amend or refuse to amend a limitation on a substantive certificate - guidance in Volume 3 of the Manual.

5 Carrying out Controlled Work

Commencing Controlled Work

5.1 Between the Schedule Start Date and the Schedule End Date, you may commence cases in Controlled Work by using the Matter Starts that, in any Category of Law, we have allocated to you in the Schedule.

5.2 You may not make any Client or prospective Client pay any fee, administration charge or similar for commencing work, opening a file, making an application for public funding or any similar activities. The exception to this is where the Matter in question is excluded from funding for Legal Help, but under the Lord Chancellor's Direction on scope you apply for a Certificate for this Matter and incur costs doing so.

5.3 You must use one Matter Start for each case, subject to paragraphs 5.6 - 5.30 on use of Matter Starts, and Category Boundaries and to any Category specific rules on Matter Starts and Category Boundaries set out the applicable part of Section 7.

5.4 Subject to your power to issue additional Matter Starts in certain priority Categories set out in paragraph 5.5 below, you may not use more Matter Starts than allocated to you in your Schedule.

Self authorisation of additional Matter Starts in Priority Categories

5.5 You may use accept an application for Controlled Work notwithstanding the fact that you have reached the maximum number of matter starts authorised by your Schedule in the relevant category of law (an you have also used up you allocation of Tolerance Matter Starts available) if the following conditions are met:

(a) the application is

(i) in relation to a matter falling within paragraph 3 of the Lord Chancellor's Direction of 1 February 2000 on Community Legal Service Funding Priorities (Special Children Act proceedings (as defined in the Funding Code) and civil proceedings where the Client is at real and immediate risk of loss of life or liberty); or

(ii) by a Client suffering from severe mental or learning difficulties; and

(b) it is necessary to grant the application for Controlled Work as a matter of such urgency that it is not reasonably practical to obtain permission from the Regional Office via a Schedule amendment before providing the Controlled Work; and

(c) the relevant Regional Office receives notification from you (on the form provided by us) within five working days of the grant of the application for Controlled Work; and

(d) your Contract allows you to carry out work in the relevant category.

Controlled Work Category of Law and Matter Start Boundaries

5.6 It is a condition of this Contract that Controlled Work is allocated to individual Matter Starts appropriately and in accordance with the provisions set out in paragraphs 5.6 - 5.30.

5.7 As a large volume of Controlled Work is paid for under a Standard Fees and Graduated Fees system there is a risk that Suppliers will attempt unjustifiably to increase the numbers of Standard Fees and Graduated Fees they may claim by artificially creating additional Matter Starts and commencing two or more Matter Starts for the same Client where it would be sufficient and appropriate to commence only one. You are not permitted to do this.

5.8 You are required to comply with any Category of Law Specific provisions on use of Matter Starts set out at Section 9 and the following general provisions.

5.9 Each separate Matter must be the subject of a separate application form. You must identify, and record on the appropriate case file, any point at which the work which you are performing for any Client on one matter becomes a separate matter and use of a separate Matter Start is necessary.

5.10 A Matter Start should be commenced only where the sufficient benefit test set out in 5.2.1 of Section 5 of the General Funding Code criteria (Part A of the Funding Code) and all the other applicable Funding Code Criteria are met in respect of opening this new matter.

5.11 If work you are performing for a Client on one matter becomes two (or more) separate matters, you may only use a new Matter Start for the separate matter(s) if there is sufficient benefit and all the applicable Funding Code Criteria are met in respect to the separate matter(s) considered on its own merits.

5.12 A single Matter Start should be completed to identify the issues and provide general, preliminary advice. If one legal issue is identified then the original, single Matter Start should be used for the provision of further Controlled Work.

5.13 The fact that circumstances have changed or developments have occurred as the case has progressed will not mean that a separate Matter Start is required if the Controlled Work continues to be provided on the same overall legal issue.

5.14 Where the same set of circumstances gives rise to multiple issues which may fall into more than one category of law brief advice should usually be provided in relation to all those issues on one application and this will only qualify as one Matter Start. The case should be recorded as a Matter Start in the category of law into which the main issue falls, without consideration of the respective levels of any applicable Standard Fee or Graduated Fee. If however an issue in another Category of Law is pursued beyond brief advice, then a separate Matter Start in that Category of Law should be used provided the Funding Code criteria are met and you have an available Matter Start. A Matter Start cannot be in more than one Category of Law of work.

5.15 Two or more issues that would lead to one single action, cause or matter will constitute one Matter Start.

5.16 Two or more issues that would be dealt with under one certificate for Legal Representation will constitute one Matter Start.

5.17 Two or more potential matters arising from the same set of circumstances, that would involve significant overlap of legal or factual issues will generally constitute one Matter Start

5.18 Except in relation to Public Children work in the Family Category of Law, where you act for more than one Client in the same matter a single Matter Start should be used.

5.19 Legal Help given in relation to an interim remedy (including an application for a Licensed Work certificate) in relation to a matter on which Legal Help has already been provided will count as part of the same Matter and a new Matter Start should not be used.

5.20 Legal Help given in relation to enforcement, a review or an appeal in a matter (including an application for a Licensed Work certificate) on which advice was previously given will count as part of the same matter and a new Matter Start should not be used.

5.21 If a Client seeks advice as to whether (s)he should change Supplier from a Supplier already providing Legal Help it is not justified to consider this as a separate matter to the advice being given by the previous solicitor. The provisions in Paragraphs 2.23 – 2.39 should be applied before any advice is given as a separate matter.

5.22 Providing Controlled Legal Representation in a matter for which you have been providing Legal Help does not count as a separate Matter Start.

5.23 Providing Help at Court in a matter for which you have been providing Legal Help will count as part of the same Matter Start and no separate application is required beyond the original application for Legal Help.

5.24 This provision applies where you have previously provided Controlled Work to a Client in relation to a matter and you have already submitted a Claim for the matter. If you then provide further Controlled Work to the Client in relation to the same matter this will count as a separate Matter Start only if further Legal Help is required as a result of a material development or change in the Client's circumstances. If, however, the Client simply failed to give instructions for a period or there are no material changes or developments, then you are not entitled to count this as a separate Matter Start and may not make another Claim for any work you undertake, even if the Case ended under paragraph 5.48 below as a result of the Client failing to give instructions and you have submitted a Claim for that work.

5.25 Providing information to Clients or to other persons contacting your organisation as required by us under paragraph 1.2 above does not constitute a Matter Start.

5.26 Supplying a new Supplier with a former Client's file or a copy, or information about the circumstances of termination of the retainer, under paragraph 1.4 above does not constitute a Matter Start.

5.27 Any advice given to a Client over the telephone before that Client has signed the application form under paragraph 2.25 above will count as the same Matter Start as work carried out after the application form has been signed. If the Client does not, for any reason, subsequently sign the application form then you may not claim for this work or count it as a Matter Start.

5.29 Any work undertaken on a Case by an agent on your behalf will form part of the same Matter Start as the parts of the Case handled by you.

5.30 If you intend to grant Emergency Representation in relation to a Matter, you may not in addition use a Controlled Work Matter Start for that Matter.

Financial Limits

5.31 In relation to any Legal Help which is paid by Hourly Rates under Section 6 of this Specification, you may only provide Legal Help where the costs do not exceed the limit set by us from time to time ('the upper financial limit') for the costs of Legal Help, inclusive of disbursements, in relation to any one matter unless we have given authority to exceed that limit.

5.32 An application for authority to exceed the upper financial limit must be made to the relevant Director on the form specified by us.

5.33 If authority is granted to exceed the limit you may claim at the Contract rate for the work actually and reasonably carried out up to a maximum of the amount authorised by us in the particular case. The Upper Financial limit set by us may vary by or within the Category of Law or by Schedule Office (including by reference to whether that Office has a Supervisor in a Category of Law).

5.34 This provision does not apply to any Matter for which a Standard Fee or Graduated Fee is payable.

Disbursements

5.35 You may incur disbursements where:

- (a) it is in the best interests of the Client to do so;
- (b) it is reasonable for you to incur the disbursement for the purpose of giving Controlled Work to the Client;
- (c) the amount of the disbursement is reasonable; and
- (d) incurring the disbursement is not prohibited by this section or the applicable part of Section 8 of this Specification.

5.36 We may prescribe types of disbursements which may or may not be incurred in the provision of Controlled Work.

5.37 The provisions for reimbursing and claiming for the costs of disbursements depend on the type of Controlled Work and the basis of remuneration is set out in Section 7 below.

5.38 Standard Monthly Payments will include provision built in on account of disbursements, based on historical average payments. We have power in the Standard Terms to vary Standard Monthly Payments where appropriate and will monitor your use of disbursements via auditing and Assessment and may seek explanations and justifications as necessary.

5.39 A non-exhaustive list of disbursements which may not be incurred in the provision of Controlled Work appears below.

Disbursements which may not be claimed
Costs of or expenses in relation to treatment, therapy, training or other interventions of an educative or rehabilitative nature unless authorised by the Lord Chancellor.
Ad Valorem stamp duties.
Capital duty.
Client's travelling and accommodation expenses save in the circumstances prescribed in the Costs Assessment Guidance at Part C of the Specification and unless they relate to treatment, therapy, training or other interventions of an educative or rehabilitative nature.
Contact centre fees.
Court fees unless for a search/photocopies/bailiff service or as part of Controlled Legal Representation
Discharge of debts owed by the Client, for example, rent or mortgage arrears.
Fee payable on voluntary petitions in bankruptcy.
Immigration application fees
Mortgagees' or lessors' solicitors costs and disbursements.
Passport fees.
Probate fees.
In the Family Category of Law only, costs of or expenses in relation to the provision of family mediation, conciliation or any other dispute resolution including Family Group conferences.

5.40 If you propose to incur a disbursement which does not appear in this list then you must consider whether the disbursement is recoverable or not by reference to its purpose (that is, is it for the purpose of providing Controlled Work) and the provisions at paragraph 5.35 above. The cost of the provision of legal advice by a person who is neither a lawyer nor supervised by a lawyer cannot be treated as a disbursement.

5.41 You may not use the Legal Help scheme where the only work to be undertaken by you is incurring the disbursement and passing the service provided (for example, a report) to the Client without the Client receiving any oral or written legal advice in relation to the particular circumstances that have arisen.

Interpreters and translators

5.42 We may at any time give you a direction in writing prohibiting you from instructing a particular interpreter or translator in relation to Contract Work.

Experts working with Children

5.43 You may not instruct or be involved in the instruction of an expert who will be required to work with children unless you are satisfied that the expert has been checked prior to instruction by the Criminal Records Bureau and a satisfactory response received. You must make a note on the file to record this fact.

Use of agents

5.44 You may use a solicitor or legal advisor working as an agent to carry out work on your behalf, provided that:

- (a) you assume total responsibility for ensuring that their work is properly supervised and complies with all terms of this Contract;
- (b) your supervision of them is in all respects equal to that of your employed advisers and solicitors; and
- (c) you are responsible for all payments to them in respect of this work.

5.45 In the case of work which is covered by Standard or Graduated Fees under Section 6 of this Specification, any fees or costs related to your use of agents will be included as part of the Standard Fee or Graduated Fee and may not be claimed separately,

Location of work

5.46 Controlled Work must be provided from within the Bid Zone in relation to which you have been granted this Contract unless it is:

- (a) provided via any Outreach Work service specifically authorised by a Schedule or other contract issued by us; or
- (b) approved by us in writing in advance; or
- (c) provided to a Client on an individual basis where the Client for good reason cannot attend a Schedule Office and it is reasonable in the circumstances for you to accept instructions from that Client; or
- (d) Controlled Legal Representation or Help at Court at the appropriate court or tribunal; or
- (e) appropriate travel to attend on counsel, experts, witnesses or site inspections.

Good reason in relation to Paragraph (c) above will be as in paragraph 2.15 above.

Outreach work

5.47 You may perform Outreach Work within the Bid Zone in relation to which you have been granted this contract without our prior authority. Otherwise Outreach Work may only be performed by you if your Schedule allows, and in accordance with the terms set out in the Schedule.

Ending Controlled Work

5.48 A Controlled Work matter ends when any of the following events occurs:

- (a) the Client decides not to proceed, or indicates that they wish to take the matter forward themselves;
- (b) the Client fails to give instructions for three months (unless the matter is on hold, for example, because you are waiting for a third party to act or you have agreed this with the Client);
- (c) funding is granted under Section C of the Funding Code procedures (unless further Legal Help is required on matters not covered by the certificate) or the matter begins to be funded outside this contract;
- (d) the matter is completed, for example, by negotiation or adjudication;
- (e) you have informed the Client that the provision of Controlled Work is no longer justified having regard to the applicable Funding Code Criteria;
- (f) you can no longer act through a conflict of interest or other good reason or the Client is referred to another organisation.

5.49 You may only cease working on a Controlled Work matter when one of the circumstances above applies. In particular, you may not cease before such a point has been

reached because your costs exceed the amount you may claim for the Controlled Work matter under Section 7 of this Specification.

5.50 You must ensure that the reason for a matter ending is evident from your file. You must include the matter in a Consolidated Matter Report Form submitted to your Regional Office within three months of the matter ending.

Controlled Work Clients with a financial interest in your costs

5.51 If your client has a financial interest in any claim or assessment (because there a statutory charge applies, because they are obliged to make a contribution to their legal costs, or otherwise) they are entitled to be made aware of the costs your incurring. You must on a regular basis:

- (a) Notify your client that they have a financial interest and explain why;
- (b) Explain that when you make your Claim for costs they have a right to make representations (see paragraph 7.45 below); and
- (c) Provide them with an update of your costs.

6 Carrying out Licensed Work

The Boundary between Controlled Work and Licensed Work

6.1 It is important that you understand and correctly apply the boundary between Controlled Work and Licensed Work. The respective scope of Controlled Work and Licensed Work is set out in the Funding Code at Section 2.1 of the Funding Code Criteria, Part A, with Guidance at Part C of the Manual. There is some overlap between Controlled Work and Licensed Work and the following provisions apply.

6.2 Where you are instructed in relation to proceedings or potential proceedings where Legal Representation would be available, you should as far as practicable before making an application for Legal Representation obtain any information reasonably necessary to determine whether the criteria in the Funding Code are satisfied.

6.3 Subject to the availability of Investigative Help, Legal Help is normally the appropriate level to carry out initial investigative work at least to the point where sufficient information is available both to allow you to certify as to the prospects of success on the application and to enable you and us to reach an informed decision on each of the applicable criteria under the Funding Code for the Legal Representation sought.

6.4 In cases where the costs of investigation are likely to be substantial then you should make an application for Investigative Help.

Pre action protocols

6.5 You should carry out the work necessary to comply with any pre action protocols under Legal Help unless the Category Specific provisions at Section 9 or Funding Code Guidance state that this work should be carried out under a certificate for Investigative Help or Full Representation. In cases where the merits are unclear, you should take steps under Legal Help to comply with the protocol until sufficient information has been obtained to allow the relevant Funding Code criteria to be applied for another level of help otherwise any application is likely to be rejected as premature.

6.6 We do not generally require experts' reports to be obtained before an application is made for Legal Representation or Investigative Help, although the position will vary according to type of dispute.

Completion of investigations

6.7 Where sufficient information has been obtained to allow the case to be accurately assessed, then if in your reasonable opinion the case is likely to satisfy the Funding Code criteria for Legal Representation, you may either apply for a certificate or continue to deal with the matter under Legal Help. The latter would be appropriate where, for example, you feel that limited further negotiations will result in the matter being appropriately resolved.

6.8 Where however, as a result of your investigations your reasonable opinion is that the matter is unmeritorious and unlikely to justify the grant of Legal Representation, you may if so instructed apply for Legal Representation on your Client's behalf but should in any event cease to provide Legal Help in relation to the matter, beyond brief advice to the Client as to his or her options and any assistance in relation to any appeal, subject to there being sufficient benefit to the Client and the other Funding Code criteria being met. Where your Client does not have a substantive defence to an action, it may still be appropriate to provide some Help at Court where mitigation is required and the Funding Code criteria are met.

Application of the Funding Code Procedures

6.9 You must comply with the provisions contained in the Funding Code Procedures, Part C – Certificated Work, which are applicable to Suppliers undertaking Licensed Work.

Special Cases Unit

6.10 Civil Cases which are likely to incur high costs will be subject to separate contracts which will be issued to Suppliers, and managed, by our Special Cases Unit. You are required to refer any application for a Licensed Work Certificate, or Case covered by a Certificate currently in force, to the Special Cases Unit if the Case meets the criteria set out in paragraph 6.12 below.

6.11 We may also refer any application for a Licensed Work Certificate, or Case covered by a Certificate currently in force, to the Special Cases Unit if we believe it meets the criteria set out in paragraph 6.12 below.

6.12 The criteria for referral to the Special Cases Unit are:

- (a) cases where the Client's costs (including any enhancement, Counsel's fees and disbursements but excluding VAT) are likely to exceed £25,000 to disposal;
- (b) cases where the Client's costs (including any enhancement, Counsel's fees and disbursements but excluding VAT) might exceed £75,000 if it proceeded to contested trial; or
- (c) cases relating to actual or potential multi-party actions.

Financial interests of clients in your costs

6.13 If your client has a financial interest in any claim or assessment (because a statutory charge applies or is likely to apply, because they are obliged to make a contribution to their legal costs, or otherwise) they are entitled to be made aware of the costs you are incurring. You must on a regular basis:

- (a) Notify your client that they have a financial interest and explain why;
- (b) Explain that when you make your Claim for costs they have a right to make representations (see paragraph 7.45 below); and
- (c) Provide them with an update of your costs.

Prior Authorities

6.14 If you apply in writing to the Director in advance, we may give you prior authority to incur certain types of costs. If you receive prior authority it means that, unless it becomes apparent

that the authority was obtained as a result of your provision of incorrect information, the costs in question will be allowed on Assessment. Prior authority may be sought from the Director whenever you propose to incur costs which are either unusual in their nature or are unusually large. Any prior authority given is subject to any overall limitation on costs (including the Costs Limitation) imposed on the grant of the relevant Certificate and costs granted prior authority by us count towards this overall limitation.

6.15 Any decision by the Director under this provisions is treated as an assessment decision and is subject to the appeal provisions set out in Section 7.

Instructing Counsel

6.16 All instructions delivered to counsel must:

- (a) include a copy of the Certificate (and any amendments to it); and
- (b) include a copy of any prior authority to instruct counsel; and
- (c) be endorsed with the our reference number.

Payments on Account

6.17 You may apply to the Director for a payment on account of your profit costs on Licensed Work provided that:

- (a) an application for a first payment on account may not be made earlier than 3 months after the issue of a Licensed Work Certificate; and
- (b) an application for a second or subsequent payment on account may not be made within 6 months of a previous application for a payment on account.

6.18 When deciding whether to make any payment on account, the Director will exercise his/her reasonable discretion and is entitled to take into account

- (a) the amount claimed as against the limitations on the certificate; and
- (b) the financial situation of your account with us.

6.19 Cumulative payments on account on each Matter covered by a Certificated may not exceed 75% of the your profit costs for that Matter as at the date of the application for the payment on account. For the avoidance of doubt, if the Matter is covered by a Standard Fee or Graduated Fee, "profit costs" are in these circumstances the Standard Fee or Graduated Fee you are entitled to claim at the date of application. Overclaiming payments on account beyond this level is a breach of contract.

Graduated Fee Licensed Work in the Family Category of Work

6.20 Specific provisions governing Graduated Fee work at the Licensed Work Level of Service in the Family Category of Work, including payments on account provisions, are set out in the Category Specific provisions at Section 9 below.

7 Payment, claiming and assessment of Contract Work

Payment provisions applying to all Contract Work

Payment other than through this Contract

7.1 Except as otherwise provided by us you must not charge a fee to the Client or any person for the services provided under this Contract or seek reimbursement from the Client or any other person for any disbursements incurred as part of the provision of such services.

7.2 Where you have been carrying out Contract Work on behalf of a Client, you may not accept instructions to act privately in the same matter from a Client unless you have advised the Client in writing of

- (a) the consequences of ceasing to be in receipt of services; and
- (b) the further services which may be available under the Community Legal Service, whether from you or another Supplier, (including the possibility of an extension of the financial limit for Legal Help (if you are entitled to receive payment by Hourly Rates) or of an application for Legal Representation)

and has nevertheless decided to instruct you privately.

7.3 Where a Client elects to instruct you privately in relation to a matter in which you have been providing Contract Work, a copy of the letter dealing with the matters required by this Paragraph must be kept on the file.

7.4 All payments for Contract Work must come through us, the exceptions being where the Statutory Charge in your favour applies or a contribution is payable. Subject to this, you cannot be retained to act for the Client in the same matter under this Contract and on a privately paying basis at the same time.

7.5 This paragraph represents our authority, pursuant to regulation 15 (3) of The Community Legal Service (Costs) Regulations 2000 for you to claim your Client's full costs from another party to proceedings. For avoidance of doubt this authority applies in respect of both Licensed and Controlled Work and applies to costs recovered in respect of counsel's fees.

Payment for Controlled Work

Levels of payment for civil controlled work

7.6 We will pay you for Controlled Work which is carried out in accordance with this Contract and properly claimed under one of the following payment methods:

- (a) Standard Fees
- (b) Graduated Fees
- (c) Hourly Rates

7.7 The payment method applicable to each type of Controlled Work is as follows:

Work	Levels of Service	Payment Method	Exceptions
All Categories of Controlled Work apart from Immigration, Mental Health and Family	Legal Help Help at Court	Standard Fees	(1) Housing Controlled Work: ASBO proceedings in the Magistrates and Crown Courts (2) Debt Controlled Work: debt proceedings in

			the Magistrates Court (3) Exceptional Cases (4) Tolerance Cases
Housing: ASBO proceedings in the Magistrates and Crown Courts	Advocacy Assistance funded as part of Criminal Defence Service	Hourly Rates	Tolerance Cases
Debt: debt proceedings in the Magistrates Court	Advocacy Assistance funded as part of Criminal Defence Service	Hourly Rates	Tolerance Cases
Family Private Law	Family Help	Graduated Fees	Exceptional Cases
Family Public Law (care proceedings)	Family Help	Graduated Fees	(1) Non Section 31 cases (2) Exceptional Cases
Family Public Law Non Section 31 Cases	Family Help	Hourly Rates	
Immigration: Non Asylum	Legal Help CLR	Graduated Fees	Exceptional Cases
Immigration: Asylum	Legal Help CLR	Graduated Fees	Exceptional Cases
Mental Health	Legal Help CLR	Graduated Fees	Exceptional Cases
Tolerance Cases	Legal Help Help at Court	85% of applicable Standard Fee	Exceptional Cases
Exceptional Cases	Dependant on Category of Law	Hourly Rates	

Standard Fees and Graduated Fees

7.8 We will pay for each Matter Start covered by Standard Fees and Graduated Fees which is

- (a) properly conducted and
- (b) claimed in accordance with the terms of this Contract

the fixed sums for the relevant Category of Law set out in the Payment Rates Table at Part B of the Specification [applicable to the Region in which the Office where the Client made his/her application is located]. In taking on the Client to undertake Controlled Work covered by a Standard Fee or Graduated Fee payment, you are accepting that Standard Fee or Graduated Fee as full payment for all work reasonably required for the Client in that matter at the Controlled Work level (unless the Case subsequently becomes an Exceptional Case).

7.9 Standard Fees and Graduated Fees are inclusive of profit costs, travel and waiting costs and time, and (except in the case of Immigration Asylum Cases) Counsel's fees but are exclusive of other disbursements and VAT.

7.10 Disbursements incurred on the Controlled Work matters and not covered in 7.9 above may be claimed separately. In the case of Immigration Asylum Cases you may also claim separately for Counsel's fees.

7.11 For the avoidance of doubt:

- (a) No payment is due for a Matter Start where no Claim is made, or where the amount of your Claim is nil; and
- (b) If we receive a Claim for Controlled Work later than required we are not obliged to make payment in full. If the Claim is up to one month late, payment may be reduced 25%; if it is between one and two months late, it may be reduced by 25% to 50%; if it is over two months late we are not obliged to make any payment for it.

Provisions on Standard Fees and Graduated Fees

7.12 Notwithstanding the fact that you will only be entitled to payment of a Standard Fee or Graduated Fee you should continue to act reasonably in the best interests of the Client as if you were paid on an hourly rate.

7.13 You should not intentionally change your case mix or target certain sorts of Clients or types of work in order to have the effect of maximising lower cost work. This does not mean that you cannot take appropriate steps to ensure that you undertake a mix of cases within a Category of Law which broadly reflects the types of cases arising in your Bid Zone in this Category of Law.

7.14 You should apply for Licensed Work on a Client's behalf at the appropriate point, applying paragraphs 6.1 to 6.8 above.

7.15 You are required to comply with any Category of Law Specific provisions on use of Matter Starts set out at Section 9 and the general provisions on Controlled Work Category of Law and Matter Boundaries at paragraphs 5.6 - 5.30 prohibiting the unjustified use of additional Matter Starts. Claims in breach of these provisions will be disallowed and only one Standard Fee or Graduated Fee paid in respect of all the Work which should have been claimed under one Matter Start.

7.16 Nothing in this Contract affects your rights to recover costs from another party in proceedings or prospective proceedings in excess of the amount payable by us as a Standard Fee or Graduated Fee.

Exceptional Cases provisions

7.17 Where the amount of any Claim covered by a Standard Fee or Graduated Fee exceeds either four times the amount of the Standard Fee or Graduated Fee payable for that Claim then you can apply to us for the Claim to be treated as an Exceptional Case.

7.18 Exceptional Cases will be remunerated on the basis of Hourly Rates.

7.19 We will agree to treat a Claim as an Exceptional Case where you can demonstrate to our reasonable satisfaction that the Claim should have not been the subject of an application for a Certificate before the Exceptional Claim limit was reached.

7.20 We may assess the costs of each Exceptional Case Claim or a sample of them, and the amount payable may be reduced on assessment.

7.21 Where we refuse an application to agree a Claim as an Exceptional Case on the grounds that an earlier application should have made for a Certificate an appeal may be made against that decision to the Costs Committee and subsequently to the Costs Appeals Committee on a Point of Principle of General Importance. The procedures in this Section 7 shall apply to any such appeal.

7.22 For the avoidance of doubt any refusal by us of a request by you to treat a Claim as an Exceptional Case is excluded from Clause 22 of the Contract Standard Terms.

7.23 Any Claims which we have agreed to treat as Exceptional Case under the provision of paragraph 7.17 will not be included in any “average” calculated under paragraph 7.25 below.

Tolerance Work

7.24 Payment for Tolerance work will be made at 85% of the Standard Fee or Hourly Rates which would normally be payable for work undertaken under a Matter Start allocated specifically in that Category of Law.

Right to amend Standard and Graduated Fees

7.25 We have a general right to amend the provisions of this Specification under clause 7 of the Standard Terms. Circumstances when we are likely to use this power to amend the level of Standard Fees and Graduated Fees include (but are not limited to):

(a) where new Access to Justice Legislation and/or changes to the Funding Code is in our reasonable view likely to have a significant effect on costs of carrying out Cases; and

(b) where the actual average costs (as assessed if we have elected to do so) of all Claims in a Category of Law, or part of a Category of Law are, in our reasonable view, for a sustained period at least 10% less than the Standard Fee or Graduated Fee payable in respect of those Claims.

Hourly Rates

7.26 We will pay for each Matter Start covered by Hourly Rates which is properly conducted and claimed in accordance with the terms of this Contract at the hourly rates set out in the Payment Rates Table at Part B of the Specification.

7.27 You may also claims for disbursements incurred in accordance with paragraphs 5.35 to 5.41.

Payment for Licensed Work

7.28 Subject to:

- (a) our and the Court’s rights to assess Claims for Licensed Work; and
- (b) our rights under this Contract to reduce payments;

we will pay you for Licensed Work which is properly conducted and claimed in accordance with the terms of this Contract at the rates set out in Part B of this Specification. Please refer to the Category Specific Provisions at Section 9 for the Family Category of Law provisions regarding payment of Graduated Fees for Licensed Work in this Category.

Claiming and assessment provisions for Contract Work

Overview of claiming and assessment procedure

7.29 You must comply with the provisions on claiming and assessment in respect of Contract Work set out in the terms of this Contract, the Community Legal Service (Financial) Regulations 2000, the Community Legal Service (Costs) & (Costs Protection) Regulations 2000 and the Civil Procedure Rules.

Controlled Work – claiming and assessment procedure

7.30 In respect of Controlled Work, you are required to

- (a) first make a Claim for Controlled Work in accordance this Specification; and then
- (b) we may exercise our rights to assess your Claim(s) in accordance with this Section 7.

7.31 Within 3 months of the conclusion of a Controlled Work Matter (in accordance with paragraph 5.48 above) you must make Claim for payment for that Matter.

7.32 In order to make a Claim for Controlled Work you must submit a report to the relevant Director claiming an amount to be reconciled against the payments made to you under the Contract (a "Credit") based on the appropriate Hourly Rates, Standard Fee or Graduated Fee applicable to the Controlled Work carried out, plus disbursements, and VAT . The report must be submitted on a form and in a format approved by us. Credits claimed will be set off against the Standard Monthly Payments under your Work Schedule.

7.33 Claims for Controlled Work which are covered by Standard Fees or Graduated Fees will not be reduced on assessment (except as provided at paragraph 7.54) but we may take the results of our assessment

- (a) in considering the level of Standard Fees and Graduated Fees under paragraph 7.25 above;
- (b) in assessing your performance under this Contract; and
- (c) when deciding whether your work should be subject to quality assessment (peer review) or another form of audit.

Licensed Work – claiming and assessment procedure

7.34 In respect of Licensed Work, for Claims where the Court is responsible for assessment (in accordance with paragraph 7.36 below), you must first submit your Licensed Work Claims for assessment by either the Court; and when this Assessment is complete make a Claim for payment from us.

7.35 In respect of Licensed Work Claims where we are responsible for assessment (in accordance with paragraph 7.36 below) you must submit to us a Claim for payment and assessment on the required form.

7.36 When

- (a) proceedings are commenced in any Licensed Work Case; and
- (b) either
 - (i) The claim for costs in the proceedings to which the Certificate (or any linked Certificates) relates exceeds £2,500 (including Counsel's fees and disbursements but not including VAT); or
 - (ii) it is or may be necessary for the Court to carry out a detailed assessment of costs payable to the Client or another party to the proceedings.

your Claim for payment for Licensed Work must be submitted for detailed assessment by the Court, unless there are special circumstances where detailed assessment is against the interest of the Client or will increase costs under the Certificate. It is a matter for the Director to decide, either on application or otherwise, whether such special circumstances exist.

7.37 In all other circumstances, your Claim for payment for Licensed Work will be assessed by us (for the avoidance of doubt this includes the assessment of exceptional cases under fixed fees.)

7.38 For the purposes of paragraph 7.36 above, proceedings are commenced on the issue of the claim form and the "claim for costs" means your profit costs (including those of any previous Suppliers), Counsels' fees and any other disbursements but excludes VAT and the costs of assessment.

7.39 All claims for assessment and payment by us must be submitted within 3 months of the right to claim accruing. For the avoidance of doubt the right to claim accrues in the following circumstances: -

- a. When an assessment certificate is issued by the Court in cases where the costs are subject to detailed assessment by the Court;
- b. Otherwise, after the end of the retainer where the Certificate has been discharged or revoked

7.40 In cases where costs are to be subject to detailed assessment by the Court, Detailed assessment proceedings must be commenced within the time specified in the Civil Procedure Rules.

General provisions on claiming and assessment

7.41 You may only claim for work that has been actually and reasonably done and disbursements actually and reasonably incurred in accordance with the provisions of the Contract and that is supported by appropriate evidence on the file at the time of the Claim and Assessment. This is without prejudice to your right to claim Standard Fees and Graduated Fees.

7.42 You must submit your Claims in accordance with the terms of any limitations placed upon that Case including, but not limited to, limitations on Certificates. We may reject any Claim you make which does not comply with this paragraph.

7.43 Where an agreement or order provides for costs to be paid by any other party in favour of a client for whom you have been providing Licensed Work then, notwithstanding the provisions of paragraph 7.1 above, you may retain the element of any costs recovered under that agreement or order which exceeds the amount paid or payable to you by us in relation to the relevant disputes or proceedings.

7.44 Where interest has been received on the costs, you may retain a proportion of the interest which equates to the proportion of the total costs recovered which you are authorised to retain under this Rule. The balance of any costs and interest after you have retained any element authorised by paragraph 7.43 – 7.44 must be forwarded to us immediately.

7.45 If your client has a financial interest in any claim or assessment (because there a statutory charge applies (or, in the case of Controlled Work, may apply if the case proceeds to Legal Representation), because they are obliged to make a contribution to their legal costs, or otherwise) they are entitled to make representations in relation to your Claim. Before submitting your Claim for assessment, whether by the Court or us, you must:

- (a) Notify your client that they have a financial interest and explain why;
- (b) Explain that they have a right to make representations and set out how they can make those representations, explaining such other steps that they may take to safeguard their interest
- (c) Provide them with a copy of your bill of costs or claim for costs; and
- (d) Endorse your bill or claim indicating that you have complied with steps a - c above

7.46 Without prejudice to the generality of paragraph 7.41 above, you should note the following provisions regarding costs and disbursements:

(a) you may not claim for time spent on purely administrative matters (such as opening and setting up files, the maintenance of time/costing records) or in meeting the administrative requirements of your contract (such as the information return and the claim for costs), unless expressly provided by this Contract;

(b) you may not claim for spent on legal research over and above brief checks on the law will not be paid for as Contract Work, unless the case involves a novel, developing or unusually complex point of law, justifying either legal research by you or the obtaining of an opinion from counsel/a solicitor with higher rights of audiences;

(c) you may not claim for any additional costs incurred by you or your Client because you are based in a location different from your Client;

(d) you may not claim for Counsel's fees in the Magistrates' Court unless you have obtained prior authority from us to instruct Counsel under paragraph 6.14.

(e) you may not claim for the fees of Queens Counsel or more than one counsel unless you have obtained prior authority to instruct Queens Counsel or more than one counsel under paragraph 6.14. For the avoidance of doubt, prior authority to instruct a Queen's Counsel is required only where Queen's Counsel will act as such but not where Queen's Counsel choose to act and be paid only at junior counsel rates.

7.47 We may specify maximum rates for experts' fees, by reference to type of expert and activity (such as reports, attending conferences or court hearings). Experts' fees incurred by you in relation to any Contract Work will not exceed these maximum rates, unless authority has been granted to exceed the limit in the particular case. Subject to any such limits, the amounts claimed for experts' fees must be justified on detailed assessment by the court or Assessment by us in the normal way.

7.48 Any assessment undertaken by us (whether by the Director or by the Assessor or Costs Appeals Committee on a subsequent appeal) will be conducted on the standard basis. We will pay only those costs that are proper, reasonable, proportionate and appropriately evidenced on the file. All assessments will be subject to any costs or other limitations imposed by us and costs will only be allowed at the appropriate rate as set out in Part B of this Specification.

7.49 For Licensed Work even if the Court undertakes the assessment, the Commission is only bound to pay costs in accordance with this paragraph 7.47 above.

7.50 Within 7 days of being notified of the outcome of either a detailed assessment by the Court or assessment by the Director, you must inform counsel, in writing, where the fees claimed on his/her behalf have been reduced or disallowed.

7.51 When we assess a sample of your Controlled Work claims, we may apply any findings to your other claims for payment for Controlled Work at Hourly Rates. When we apply findings in this way, we may do so for all cases commenced under this Contract (or any previous contract it has replaced) where costs have been claimed from us either:

- (a) Since the date the file sample was requested for the last contract compliance audit, or
- (b) From a date 12 months immediately preceding the date the file sample was requested for assessment on the current audit,

whichever is the most recent.

7.52 'Findings' for the purposes of paragraph 7.51 above includes not only findings on particular practices (such as failing to assess financial eligibility) but in relation to more general matters, such as claiming excessive time for preparation or attendances or the average percentage reduction on assessment of a sample of your files.

7.53 When findings are applied to a claim under these provisions, then we have assessed that claim.

Assessment of Claims for Standard Fees and Graduated Fees

7.54 We have the right to assess all your Claims for Standard Fees and Graduated Fees in accordance with the provisions of the Contract. However we will not amend any Standard or Graduated Fee payable to you as a result of an Assessment except as set out in this paragraph:

(a) We will not pay for work that is outside the terms of the Contract (for example work for non-eligible clients, where the Funding Code Criteria are not met, work which is not within the scope of Controlled Work).

(b) Where your contract is terminated and you do not (or are not permitted to) complete your Cases then we may pay the lower of the Assessed amount or the Standard Fee or Graduated Fee.

(c) Where more than one Standard Fee or Graduated Fee has been made for a case that should, in our reasonable view, have been treated as one Matter Start (see paragraph 5.6 – 5.30 and the Category Specific Provisions) then we may Assess the Costs of any additional Standard Fee and Graduated Fee Claims as nil, so that only one Standard Fee or Graduated Fee is payable. Any appeal or review of such an Assessment under the Specification will proceed on the basis of determining this issue;

(d) In the case of Graduated Fees, we may decide that you have claimed at the wrong level and restrict your payments to a lower level of Graduated Fee

Assessment of Claims for Hourly Rates

7.55 We have the right to assess all your claims for Controlled Work at Hourly Rates. The relevant Director may assess the claim either before or after the credit in relation to that Claim has been given. Where an assessment is carried out after a credit has been given in relation to any matter, then that credit may be adjusted accordingly.

Provisions on appealing from our assessment decisions – Controlled and Licensed Work

7.56 If you or counsel are dissatisfied with any decision of the Director as to the Assessment of the costs of Contract Work, you may appeal to an Independent Costs Assessor (“the Assessor”). For the avoidance of doubt, subsequent references in this Rule and its related guidance and in the following Rules and related guidance to “Assessor” shall include “Assessors” in cases where an appeal is dealt with by a panel of three Assessors rather than a single Assessor alone.

7.57 The appeal must be made in writing (setting out full reasons) within 28 days of notification of the assessment decision, and must be accompanied by the file. The Director will only extend the 28-day time limit where you have requested an extension for good reason within 21 days. Any extension of the time limit will be for a maximum further 14 days.

7.58 Failure to comply with any of the requirements set out in paragraph 7.57 means above that you accept the decision of the Director and lose your right to dispute it.

7.59 Where an appeal is to proceed the Director also has the right to make written representations (in addition to those contained in the original assessment) to the Assessor. If he does so, these will be sent to you not less than 21 days before the appeal papers are sent to the Assessor. If you receive such further representations from the Director then you have the right, within 14 days, to provide a written response to them.

7.60 The appeal shall be dealt with by the Assessor on a documents only basis. There is no general right for either party to attend or to be represented on the appeal. However, if either party considers that there are exceptional circumstances which mean that concerns or issues cannot be addressed in writing, they may make a written request (setting out full reasons) for an oral hearing, to the Assessor. Such an application must be made at the same time as:

- (a) in your case, you submit your written appeal; and
- (b) in the case of the Director, at the same time as he makes any written reply (or, where no written reply is made, during the period allowed for making such reply) .

7.61 The Assessor will consider the request and notify both parties of his decision.

7.62 If:

- (a) neither party has made a request for an oral hearing but the Assessor believes that his review of some or all of the issues under the appeal cannot be concluded properly without hearing oral submissions; or
- (b) having considered a party's request for an oral hearing, they are of the opinion that the request should be granted

he will notify the parties of this. If either party chooses to attend at an oral hearing, having been given permission from the Assessor, the other party will also have a right of attendance and representation at the appeal and shall confirm whether or not they intend to exercise that right.

7.63 In any case, whether or not a party has made a request for an oral hearing, if the Assessor is of the opinion that an appeal is of such complexity and / or value that it should not be considered by a single Assessor alone he may, in his sole discretion, refer the appeal to a panel of three Assessors either to deal with on a documents only basis or by way of an oral hearing. If the Assessor is of the opinion that the appeal should be dealt with by way of an oral hearing, the provisions set out in the preceding paragraph apply save that a panel of three Assessors shall deal with the appeal rather than a single Assessor alone.

7.64 For the avoidance of doubt, the Assessor may give procedural directions as to the determination of the appeal whether the appeal is to be dealt with on a "documents only" or an oral hearing basis.

7.65 On appeal, the Assessor shall review the Assessment whether by confirming, increasing or decreasing the amount assessed. The Assessor may apply his findings generally across files outside the sample before him under the terms of paragraph 7.51. However, no such decision shall apply to any completed Assessments that you have not appealed within the time limit.

7.66 Where in dealing with an appeal on a "documents only" basis the Assessor identifies new issues (i.e. issues which have not been raised by either party under the appeal) the Assessor will, as he considers appropriate in the circumstances, either:

- (a) adjourn the appeal and seek representations from the parties before making his final decision; or
- (b) remit the matter back to the Director for a new decision.

Points of Principle of General Importance

7.67 At any point after the submission of an appeal to the Assessor, but no later than 21 days after receipt of the Assessor's final decision, either you, the Director or the Assessor may seek certification of a Point of Principle of General Importance.

7.68 An application for certification of a Point (or Points) of Principle of General Importance must be made as follows:

- (a) in your case, by sending your application to the Director and, if one has already been appointed and their identity notified to you, to the Assessor. The Director will, within seven days of receipt of your application, forward that application to the LSC's Legal Director and, if an Assessor has been appointed but their identity not notified to you, to the Assessor also.
- (b) in the case of the Director, by sending an application directly to the LSC's Legal Director and copying that application to you and to the Assessor (if appointed).
- (c) in the case of the Assessor, by sending the application to the Director. The Director will, within seven days of receipt, send the application to the LSC's Legal

Director and notify you that the Assessor is seeking certification of a Point of Principle of General Importance.

7.69 All applications for certification of Points of Principle of General Importance, whether made by you, the Director or the Assessor, must set out the exact wording of the Point of Principle of General Importance being sought and explain, in detail, the basis of the application.

7.70 Upon receipt of an application for certification of a Point of Principle of General Importance our Legal Director will decide whether the matter should progress to the Costs Appeals Committee. If our Legal Director decides that the matter should not progress to the Costs Appeals Committee for certification then she will send her reasons for refusal to the Chair of the Costs Appeals Committee for approval and, if approved, to you, the Director and, where appropriate, the Assessor.

7.71 If our Legal Director or the Chair of the Costs Appeals Committee consider that the matter should proceed for certification to the Costs Appeals Committee then the matter will be listed for consideration by that Committee.

7.72 Applications for certification of Points of Principle of General Importance are, unless permission to attend is granted by the Chair of the Costs Appeals Committee, considered by that Committee on a documents only basis.

7.73 On considering an application under this Rule, the Costs Appeals Committee will either:

(a) decide whether to certify the Point of Principle of General Importance sought and / or, where appropriate, amend any of the Assessments of the Assessor to give effect to this determination, or refer the matter back to the Assessor for him to do so; or

(b) determine that there is no Point of Principle of General Importance raised by the application before it and refuse the application accordingly.

7.74 You, the Director and, where appropriate, the Assessor will be notified of the decision of our Legal Director and / or the Costs Appeals Committee.

8 The Statutory Charge

Application of the Statutory Charge to Controlled Work

8.1 The Statutory Charge does not apply to any Controlled Work which is completed without Legal Representation apart from Level 2 and 3 Family Help - Private work (see the Category of Law specific provisions at Section 9). However, you should note that the costs of Controlled Work may be included under paragraph 8.2 below.

Application of the Statutory Charge to Licensed Work

8.2 You are required to apply the Statutory Charge to Licensed Work you undertake according to the provisions in the Community Legal Service (Financial) Regulations 2000 and the Community Legal Service (Costs) Regulations 2000 (in both cases as amended and replaced from time to time). If you undertake Controlled Work on a matter and subsequently obtain a Certificate for Licensed Work in respect of that matter, the Statutory Charge will comprise of both your costs of the Controlled Work and the Licensed Work. For these purposes, the costs of Controlled Work will be the amount payable to you by us under Section 7 above.

8.3 You do not have discretion to exclude the costs of Controlled Work from the Statutory Charge.

8.4 Nothing in this Section 8 affects your right to recover costs from another party in proceedings or prospective proceedings in excess of the amount payable by us.