

A - Liaison Annex
(Clause 3)

General

- 1 Your Liaison Manager and our Account Manager or Relationship Manager must ensure that all (your or our, as appropriate) personnel deal with the other party's personnel in accordance with the Professional Code (below).
- 2 Liaison Managers, Account Managers and Relationship Managers must be competent, and have sufficient authority, to deal with day-to-day issues that might be expected to arise in connection with performance under, payment under and compliance with, this Contract. They must be competent to discuss, at meetings, the matters in the Standard Agenda (below).

Professional Code

- 3 You and we (the parties) agree that communication between us shall, at all times, be conducted in a polite and professional manner. Both parties agree that good communication between their personnel is key to the effective operation of this Contract, agree to ensure that their personnel understand this and to provide relevant training if they consider it appropriate.
- 4 Neither party will tolerate impolite or rude communication by any of their personnel. Shouting, oppressive or threatening behaviour is expressly prohibited.
- 5 Both parties agree to report any communication or behaviour by any of the other party's personnel, which is in breach of this code, to the other party.
- 6 Both parties agree to investigate any complaints of breach of this code by any member of their personnel and to take appropriate action (including, where appropriate, notifying the other party of the action taken). Where a complaint is justified, "appropriate action" is within the discretion of the relevant party but might include requiring the person concerned to undergo relevant training (including training on the purpose of this Contract and this code).

Standard Agenda

- 7 Meetings between your Liaison Manager and our Account Manager or Relationship Manager will cover such issues as are considered relevant at the time. These may include (but are not limited to) one or more of the following issues:
 - the significance of the Supplier, and the Contract Work they perform, to the Commission's regional and national procurement strategies;
 - the Supplier's capacity to expand the volume, or range, of Contract Work;
 - the Supplier's intentions with regard to business development and Contract Work;
 - the Commission's policy intentions that might impact upon the Supplier;
 - the quality of the Contract Work performed by the Supplier;
 - the value for money provided by the Supplier;
 - Contract performance and Contract compliance;

- opportunities to improve the working relationship between the Supplier and the Commission with an emphasis on problem prevention and resolution; and
- opportunities for improving value for money through changes to the justice system, the performance of Contract Work, administrative arrangements or otherwise.

B - Media Annex
(Clause 3)

Collection of Client and Supplier 'case studies'

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

C - Equality and Diversity Annex (Clause 5)

General

1. We are committed to promoting equality and tackling discrimination to ensure access to legal services for vulnerable clients and that services take account of the diversity of local populations, without compromising quality of service. We are also committed to promoting equality and contributing to tackling discrimination that creates barriers to career progression within the legal and advice sector. As a supplier of legal services you have a key role to play in meeting the diverse needs of the communities that you serve and promoting equality in your workplace. The requirements in this contract are intended to help you do this.

Duty not to discriminate

2. Without limiting the generality of any other provision of this Contract, you must not unlawfully discriminate and must take all reasonable steps to ensure that your personnel do not unlawfully discriminate against, or harass or victimise any person (directly or indirectly) on the grounds of their:
 - (a) race or racial group (including colour, nationality , ethnic or national origins);
 - (b) sex (including marital status, gender reassignment, pregnancy, maternity and paternity);
 - (c) sexual orientation (including civil partnership status)
 - (d) religion or belief;
 - (e) age; or
 - (f) disability.

Equality and Diversity Policy, Training Plan and Communications Plan

3. The requirements in paragraphs 4 to 10 (below) must be ~~in place, and~~ in effective operation throughout the term of this Contract, ~~by no later than 1 October 2007~~. To help you achieve this, the LSC will provide Equality and Diversity Policy Guidance, which we will make available online at www.legalservices.gov.uk.
4. You must have a written Equality and Diversity Policy that is available for audit at our request. The purpose of your policy is to set out how you will promote equality and tackle discrimination in your organisation and meet the diverse needs of the clients you serve. In doing so your policy should be relevant to the size and nature of your organisation.
5. As a minimum your Equality and Diversity Policy must include:
 - (a) a commitment to the principles of equality and diversity and to observing legislative requirements;
 - (b) how you will meet the diverse needs of the clients and local community or communities that you serve;
 - (c) how you will implement, monitor, evaluate and update the policy;
 - (d) how you intend to ensure equality in relation to your personnel, Clients, potential Clients and other third parties;

- (e) how complaints and disciplinary issues are to be dealt with;
 - (f) requirements that no members of your personnel unlawfully discriminate in dealings with other members of your personnel, Clients, potential Clients or other third parties.
6. These are the minimum requirements that your policy must meet. While you may choose to go beyond the minimum requirements nothing in your policy should be contrary to anything required under this Contract. In particular it must not discriminate on the grounds outlined above, at paragraph 2 above.
7. You must also have:
- an equality and diversity training plan for your personnel; and
 - a communications plan to promote and raise awareness of policies and procedures for ensuring that your services are accessible for people with a disability and meet the foreign language needs of the clients that you serve in your locality.

Further information on the form and content of these plans will be set out in the Equality and Diversity Policy Guidance. These plans may be incorporated into your Equality and Diversity Policy.

8. The Equality and Diversity Policy Guidance will set out how the lead member of a consortium, and those suppliers who we have agreed may perform some Contract Work through a sub-contractor, should ensure that the other members of the consortium or the sub-contractor will implement a similar policy and ensure that they are aware that it will be subject to audit by us. The Equality and Diversity Policy Guidance will also provide guidance on how you should monitor and report on the implementation of the policy and its effectiveness.
9. Where you have responsibility to produce another equal opportunity or equality and diversity policy (for example, under the SQM or by the Law Society or another regulatory body) you may choose to have one policy to meet all of your requirements. You are not required to have a separate policy for the purpose of this Contract as long as it contains the minimum requirements set out in paragraph 5 above.
10. You must review your policies in operation not less than twice a year (and more regularly as appropriate if you identify any non compliance or problem concerning equality and diversity issues with clients or personnel) and take appropriate remedial action if you discover any non-compliance, or if they are failing to achieve their objective. Failure to do so may lead to the issue of a notice and application of a Contract Sanction.

Recommended communications plan provisions

11. The provisions of paragraphs 12 and 14 (below) are not mandatory but we ask you to consider them, given our express commitment in paragraph 1 (above).
12. You could consider expanding your communications plan to outline your approach to managing external relations and communications with the communities and Clients you serve and with minority groups from which potential Clients might come.
13. As part of the communications plan you might set out your proposed communication channels, the key messages you propose to communicate and the resources you would use to implement the plan. The plan might also indicate how you would address any feedback from local communities or Clients.

14. The plan might cover the communication requirements and access rights of disabled people, the languages spoken by the Client base and the needs of people who may have a sensory impairment or learning disability. It could identify methods for measuring and evaluating the effectiveness of communication activities.

D - Client Service Annex
(Clause 7)

Clients' Interests and Independence

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

Indemnity Insurance

3. You must have appropriate indemnity insurance. Unless you are a registered charity, this must provide at least the minimum cover required for solicitors in private practice as specified by The Law Society from time to time. If you are a registered charity, this must provide cover of at least £1 million.

Client service, file management and file review procedures

4. You must have client service procedures that ensure that Clients are provided with appropriate information at the outset and at appropriate intervals thereafter and which ensure confidentiality.
5. [If you hold a Unified Contract \(Civil\)](#) You must have documented file management procedures that meet the ~~same~~ objectives of Requirement E1 of the SQM. This does not require you to comply with all the detailed terms of this Requirement. [If you hold a Unified Contract \(Crime\) must have documented file management procedures that comply fully with Requirements E1 of the SQM](#)
6. You must have file review procedures that comply precisely with the terms of Requirement E2 of the SQM;
7. You must monitor (and take corrective action where necessary):
 - (a) the quality of your advice to, and other legal work for, Clients;
 - (b) the quality of your client service; and
 - (c) Clients' perceptions of the service they have received from youand, as part of this monitoring, must undertake periodic Client surveys.
8. You must have procedures covering the instruction of any third parties e.g. counsel and experts to ensure that services to the Client meet, overall, at least the standard required by this Contract.
9. You must have a procedure for dealing with any Clients' complaints. This must aim to determine complaints rapidly and fairly and must provide information that you must use to prevent any future similar complaints.

Individual [Civil M](#)matters and [C](#)ases

10. Where we consider it appropriate, we may require you to manage individual [Civil Matters](#) and [Cases](#) according to the costed case plan requirements for very expensive cases as set out in the Funding Code.

Crime Very High Cost Cases

11. [Please note that all Suppliers holding the Unified Contract \(Crime\) are obliged to notify us of any potential VHCC's, any case which is a VHCC is subject to separate contracting arrangements.](#)

Meeting Clients' needs

12. [If you hold a Unified Contract \(Civil\) ~~You~~-you must have documented procedures that meet the objectives of Requirement F of the SQM. This does not require you to comply with the detailed terms of the Requirement and you may meet the objective by any means effective to do so. If you hold a Unified Contract \(Crime\) you must have documented procedures which comply fully with Requirement F of the SQM.](#)

Commitment to quality – Complaints, Client feedback etc

13. [If you hold a Unified Contract \(Civil\) ~~You~~-must have documented procedures that meet the objectives of Requirement G of the SQM. This does not require you to comply with the detailed terms of the Requirement and you may meet the objective by any means effective to do so. If you hold a Unified Contract \(Crime\) you must have documented procedures which comply fully with Requirement G of the SQM.](#)

E - Monitoring Annex
(Clause 7)

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

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

Electronic Supplier Management System

The requirement to have a matter and case management system that is able to interface with our Supplier management system electronically ~~(following consultation and notice to you)~~ is set out at clause 7.3 of the Standard Terms. This will facilitate performance and compliance monitoring and help to reduce your Contract administration costs.

Records

Your records for/of Contract Work must include:

- how any Client complaints have been handled;
- the results of any Client satisfaction surveys;
- the results and reports of any internal (by you) and external (by us or a third party) audits (such as audits of your compliance with the Q.A. Standard by any third party);
- all identified non-compliances and the corrective action taken; and
- details of the operation of your equality and diversity policies, procedures and communications and a candid assessment of their effectiveness;
- such up to date details regarding your organisation and your clients as we may reasonably require;
- a comprehensive record of findings for each file review undertaken;
- results of your review (which must be undertaken at least annually) of all file reviews records and details of action taken to improve performance where negative trends are identified; and
- how you have (in accordance with Clause 7.9 of the Contract Standard Terms) effectively monitored your performance under and in compliance with, this Contract, and the corrective action you have taken (if any).

Who are Approved Personnel?

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

Must any recruitment procedures be followed?

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

Must Personnel consent to our obtaining status reports

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

When might we not approve personnel?

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

Who are not approved personnel?

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

What if any Contract Work is performed by other personnel?

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

Personnel structure (family tree)

9. [If you hold a Unified Contract \(Civil\) you must have documented procedures that meet the objectives of Requirement C1 of the SQM and which identify who are Approved Personnel. This does not require you to comply with the detailed terms of the Requirement and you may meet the objective by any means effective to do so. If you hold a Unified Contract \(Crime\) you must have documented procedures which comply fully with Requirement C1 of the SQM.](#)

People management

10. [If you hold a Unified Contract \(Civil\) you must have documented procedures that meet the objectives of Requirements D1 and D2 of the SQM. This does not require you to comply with the detailed terms of the Requirement and you may meet the objective by any means effective to do so. If you hold a Unified Contract \(Crime\) you must have documented procedures which comply fully with Requirements D1 and D2 of the SQM.](#)

Supervisors and supervision

11. You must precisely comply with the Requirements for Supervisors and the Supervisory Role set out in D3 and D4 of the SQM.
12. If any Supervisor ceases to meet the Supervisor requirements or fails to perform their duties as a Supervisor in a timely manner and with all reasonable skill, care and diligence, you must cancel their status as a Supervisor.

Training

13. You must precisely comply with the Requirements for training and individual competence of casework staff set out in D5.1 and D5.3 of the SQM, namely:
 - (a) in each 12 month period, every casework member of staff must receive a minimum of six hours' training, of which 50% relates directly to the relevant Category of Law; and
 - (b) every casework member of staff must have a professional legal qualification or conduct a minimum of 12 hours' casework per week (or equivalent).

[Designated Fee Earners \(Unified Contract \(Crime\) only\)](#)

14. [You must designate all fee earners who regularly undertake fee-earning Crime Contract Work under this Contract for you.](#)
15. [Paragraph 10.2 of the Unified Contract \(Crime and Civil\) Standard Terms contains limitations on work which may be carried out by non-designated fee earners. Where a non-designated fee-earner is used, you must ensure that the fee-earner is competent and that they are effectively supervised in accordance with paragraph 2.7 of the Unified Contract \(Crime and Civil\) Standard Terms.](#)
16. [For the purposes of designation only, when identifying fee-earners, you may disregard any fee-earning work \(which may be Contract Work\) which is basic or routine, such as the completion of standard forms, making routing telephone calls, and dispatching standard letters. In addition, you do not have to designate staff who only occasionally undertake a limited amount of work as less than 3 hours a month.](#)
17. [You must designate all Crime Supervisors, FILEX Supervisors, Duty Solicitors and Accredited and Probationary Representatives employed by you.](#)

18. You may designate fee-earners not employed by you, especially where they undertake work for you on a regular basis. Where you do so, that fee-earner is subject to the same requirements as all other designated staff and you must comply with the requirements of paragraph 2.7 of the Unified Contract (Crime and Civil) Standard Terms.
19. A fee-earner may be designated by more than one Supplier. This is most likely to occur where an agent is regularly instructed by several Suppliers. In these circumstances each Supplier is responsible for ensuring that the fee-earner meets each of the requirements relevant to a designated fee-earner. In such circumstances, Suppliers may decide to divide these responsibilities or come to some other arrangement. Your records in respect of such a designated fee-earner must set out these arrangements.
20. SQM requirement C.1.1 requires you to have a document that identifies all staff, their current jobs and lines of responsibility. This must cover all designated fee-earners and must show:

 - (a) Whether the fee-earner is a Duty Solicitor, a Solicitor, an Accredited Representative, a Probationary Representative or other non-Solicitor staff; and
 - (b) Any fee-earner codings or PIN numbers used by them.
21. Where a designated fee-earner is a Duty Solicitor, you must maintain a record of details of the Schemes of which they are a member and evidence of compliance with paragraph 5.1 of the Duty Solicitor Arrangements
22. Where a designated fee-earner is an Accredited Representative, you must maintain a record of the evidence of compliance with the requirements needed to maintain Accredited Representative status (see the Legal Services Commission Advice and Assistance at Police Station Register)
23. The information required by paragraphs 21 and 22 above should be retained on a personal file for each designated fee-earner. Alternatively, you must retain the information for all staff together in a single location. A common approach must be taken in respect of the same category of information for all staff.

G - Key Performance Indicator Annex
(Clause 10)

KPI Number	<u>CIVIL PERFORMANCE INDICATORS</u>	
	<u>The Key Performance Indicators that apply to Contract Work</u>	
<u>21</u>	<u>Controlled Work (non-Fixed Fee) - Assessment reduction</u>	<u>10% (Max)</u>
<u>32</u>	<u>Licensed Work - Assessment reduction</u>	<u>10% (Max)</u>
<u>43</u>	Civil Contract Work - <u>m</u> Matters & <u>e</u> Cases providing substantive benefit to Clients	40% (Min)
4	Fixed Fee Margin	20% (Max)
5	Matter Start usage	85% (Min)

NOTES ON THE KEY PERFORMANCE INDICATORS

General

These Key Performance Indicators (KPIs) apply to the Contract Work performed, and Claims made, by your entire organisation (not merely on an office-by-office basis).

As provided in the Contract Standard Terms, we will not treat a failure to meet any of the specified standards for KPIs Nos. 1 to 5 (inclusive) or any additional KPI introduced under the provisions set out below, as a breach of Contract, in itself, unless we have amended the Contract so that such failure is of itself a breach (but without prejudice to our rights if it separately involves a breach of any other obligation under the Contract), although such standards are likely to be part of the entry criteria for Preferred Supplier status and we will use the KPIs as measures that may cause us to raise enquiries with you or further monitoring of your performance.

Assessment reduction

The Assessment reduction has been set bearing in mind our published costs assessment guidance and the rules in the Specification. It is the maximum percentage reduction of Claims on Assessment (excluding Claims Assessed by a court) that we would expect to be made.

Matters and Cases providing substantive benefit to Clients

We will use your reported outcomes to produce a percentage showing the proportion of your Controlled Work mMatters and Licensed Work eCases that have provided a substantive benefit to the Client. In calculating performance, we will not take into account Special Children Act cases or Controlled Legal Representation in the Mental Health Category of Law.

Fixed Fee Margin

The Fixed Fee Margin is the amount, expressed as a percentage, by which the fFixed fFees you have Claimed for Contract Work exceed the costs for that Contract Work that would have

been payable had the relevant hourly rates etc applied on Assessment of the work. The 20% figure is the maximum percentage by which the ~~Fixed Fees~~ you have Claimed should exceed the costs that would have been payable had the relevant hourly rates etc been applied i.e. it is maximum efficiency saving we would expect to see.

Matter Start usage

Matter Start usage is the percentage of the Matter Starts, allocated to you at the start of each Civil Office Schedule, that you have used by the end of the Contract Year (31 March). You must use at least the minimum specified percentage.

~~Substantive benefit to Clients, Assessment Reduction, Fixed Fee Margin and Matter Start usage~~

Assessment reduction

~~The Assessment reduction has been set bearing in mind our published costs assessment guidance and the rules in the Specification. It is the maximum percentage reduction of Claims on Assessment (excluding Claims Assessed by a court) that we would expect to be made.~~

~~Additional KPIs and/or Preferred Supplier KPIs~~

~~We may at any time amend any KPI(s) and/or introduce any additional KPI(s) and/or Preferred Supplier KPI(s) (which are KPIs that you must satisfy to qualify as a Preferred Supplier and to be eligible for a contract extension and to bid for a new Unified Contract when this Contract expires), and may make meeting all KPIs a Preferred Supplier qualification requirement, subject to our compliance with the consultation obligations in Clauses 13.3 to 13.6 inclusive of the Contract Standard Terms and in accordance with the timetable in Clause 13.8 of such terms.~~

<u>KPI Number</u>	<u>CRIME PERFORMANCE INDICATORS (Direct Application KPIs)</u>	
	<u>The Key Performance Indicators that you must meet in performing Contract Work</u>	
<u>1</u>	<u>Assessment reduction on Claims for Magistrates' Courts Non-Standard Fees and Police Station Advice and Assistance Exceptional Cases</u>	<u>Maximum of 15% reduction on assessment on all your Claims for these Fees in any 3 month period during the Contract Term.</u>
<u>2</u>	<u>Acceptance of calls from DSCC for Police Station Telephone Advice and Police Station Attendance when you are allocated Supplier on Rota Duty Solicitor Scheme.</u>	<u>Minimum of 90% of calls made to you by the DSCC during each of the Quarter Periods accepted and dealt with appropriately</u>

NOTES ON THE CRIME KEY PERFORMANCE INDICATORS

General

These Key Performance Indicators (KPIs) apply to the Contract Work performed, and Claims made, by your entire organisation (not merely on an office-by-office basis).

Assessment reduction

The Assessment reduction has been set bearing in mind our published costs assessment guidance and the rules in the Specification. It is the maximum percentage reduction of Claims on Assessment (excluding Claims Assessed by a court) that we would expect to be made.

Direct Application KPIs

Direct Application KPIs are contractual requirements. If you fail to meet these KPIs this is likely to constitute a breach of contract meriting appropriate action under the Contract, including Contract Sanctions where appropriate.

H - Fundamental Breach Annex

(Clause 30)

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

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

Example 1

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

Example 2

4. Clause 8 of the Contract Standard Terms requires Suppliers to assist us in carrying out audits e.g. by giving us access to their premises and by providing documents.
5. Any **refusal** of access, or **refusal** to provide documents, is a Fundamental Breach. Legal services under the Contract are not provided to us, so we are not able to assess them as they are provided. We rely on auditing Suppliers to determine whether what we have paid for is being provided as required, and at the appropriate cost and to the appropriate standard.

Example 3

6. We are determined to ensure that, without exception, all Eligible Persons:
 - (a) are equally able, and feel equally able, to access legal services under the Act;
 - (b) receive appropriate legal services under the Act.

Any unlawful direct discrimination is a Fundamental Breach.

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

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

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

Example 1

9. Clause 10.32 of the Contract Standard Terms provides that “You must perform all Contract Work in a timely manner and with all reasonable skill, care and diligence. Clause 10.53 requires the standard of Contract Work to meet or exceed the standard required by any Independent Peer Review rating (specified in the Performance Indicator Annex). A rating of 5 (the lowest rating) is a Fundamental Breach.
10. Where evidence shows only occasional lapses below the required standard, or where the Independent Peer Review rating is 4, we will normally either serve a warning notice or write to the Supplier outlining our concerns.

Example 2

11. Clause 7.7 of the Contract Standard Terms provides that “you must record and report all data and information required by this Contract promptly and accurately”
12. Legal services under the Contract are provided to Clients and not to us, so we are not able to assess them as they are provided. We rely on the prompt and accurate recording and reporting of data and information to determine whether what we have paid for is being provided as required and at the appropriate cost and to the appropriate standard.

Example 3

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

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

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

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

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

Fundamental Breach D: Dishonesty

19. Dishonesty would normally justify termination of the contract under the common law. However, dishonesty is also a Fundamental Breach.
20. On some occasions, we have found case files for which backdated, timed attendance notes have been created prior to an audit by personnel who did not have any real evidence as to whether an attendance had taken place or, if so, how long it took and who, therefore, were unable honestly to create them. Such attendance notes are false and such behaviour is dishonest and, unless the instances are isolated, will normally result in termination.
21. We have also found case files that have had backdated letters placed on them e.g. client care letters to, falsely, give the impression that the file had been properly managed. Such behaviour is also dishonest and, unless the instances are isolated, may result in termination.
22. Such behaviour, whether to secure an unjustified Independent Peer Review rating, unjustified payments of costs or otherwise is not acceptable and may be an offence under the Fraud Act 2006.