

Category Definitions 2010

Introduction

1. These are the Legal Services Commission's Category Definitions 2010 as referred to in the 2010 Standard Civil and Criminal Contracts. Definitions of terms set out in those Contracts also apply to these Category Definitions.
2. In these Category Definitions:
 - i) References to "Legal Help" include Help at Court and, in the Family Category only, Family Help (Lower)
 - ii) References to "proceedings" in a Category cover the provision of Legal Representation (including Controlled Legal Representation) in that Category and, in the Family Category only, Family Help (Higher).
3. Services within the Crime Category are automatically excluded from all Civil Categories, except for any overlap between Categories specified in Guidance. Guidance on these Category Definitions includes examples of overlaps between Civil Categories and examples of services which fall outside all Categories.

Crime

1. Representation in all proceedings defined as criminal proceedings under section 12 of the Access to Justice Act 1999 and regulations made under that section (including regulation 3 CDS (General) (No 2) Regulations 2001).
2. All criminal Advice and Assistance as defined in section 13 of the Act and regulations made under that section (including regulation 4 CDS (General) (No 2) Regulations 2001). 3. All appeals in relation to criminal proceedings including applications for case stated arising out of criminal proceedings.
3. The Crime Category also includes Advice and Assistance and Representation in the following areas (as defined in the 2010 Standard Crime Contract):

- (a) Prison Law;
 - (b) Associated CLS Class of Work.
4. The undertaking of civil proceedings is excluded from the Crime Category unless falling within the definitions given above. Proceedings brought under the Environmental Protection Act 1990 for a statutory nuisance where the client is the complainant are excluded from the Crime Category as are proceedings under the Animal Welfare Act 2006 for the destruction of animals.

Family

1. Legal Help on matters and all proceedings which arise out of family relationships, including proceedings in which the welfare of children is determined.
2. Also included are Legal Help on Matters and all proceedings under any one or more of the following:
 - (a) the Matrimonial Causes Act 1973;
 - (b) the Inheritance (Provision for Family and Dependants) Act 1975;
 - (c) the Adoption Act 1976;
 - (d) the Domestic Proceedings and Magistrates' Courts Act 1978;
 - (e) Part III of the Matrimonial and Family Proceedings Act 1984;
 - (f) Parts I to V of the Children Act 1989;
 - (g) Part IV of the Family Law Act 1996;
 - (h) The Adoption and Children Act 2002;
 - (i) the Civil Partnership Act 2002
 - (j) the inherent jurisdiction of the High Court in relation to children.
3. For the avoidance of doubt, the following matters/proceedings are also included within the category:
 - (a) Legal Help in making a will where the client is the parent or guardian of a disabled person who wishes to provide for that person in a will, or of a minor living with the

client but not with the other parent, and the client wishes to appoint a guardian for the minor in a will;

- (b) proceedings to enforce any order made within family proceedings;
- (c) proceedings under S20 of the Child Support Act 1991;
- (d) proceedings under the Family Law Act 1986;
- (e) proceedings under the Child Abduction and Custody Act 1985 (but note that devolved powers do not extend to taking such proceedings);
- (f) proceedings under the Protection from Harassment Act 1997 or in assault and trespass where the proceedings are family proceedings and only an injunction and either no or only nominal damages are sought or where an application is made to vary or discharge an order made under section 5, and the proceedings are family proceedings;
- (g) applications to enforce orders made in family/matrimonial proceedings under the Civil Jurisdiction and Judgments Acts 1982 and 1991;
- (h) proceedings under S14 of the Trusts of Land and Appointment of Trustees Act 1996 where the proceedings are family proceedings;
- (i) proceedings under the Maintenance Orders Acts 1950 and 1958;
- (j) proceedings under Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972 relating to a maintenance order made outside the United Kingdom;
- (k) applications for a parental order under the Human Fertilisation and Embryology Act 1990;
- (l) proceedings under S106 of the Social Security Administration Act 1992;
- (m) proceedings under the Crime and Disorder Act 1998 for:
 - (i) a Child Safety Order or for a Parenting Order made in proceedings for a Child Safety Order; or
 - (ii) an Anti-Social Behaviour Order or Sex Offender Order made in relation to a child, and any associated Parenting Order
 - (iii) a Parenting Order made on the conviction of a child but only where the parent cannot reasonably be represented by the child's solicitor
- (n) applications to the court to change the name of a child.

Personal Injury

1. Legal Help on matters and all proceedings, other than those falling within the Clinical Negligence Category, in which there is a claim for damages for personal injuries to, or arising out of the death of, the claimant or any other person, including claims to the Criminal Injuries Compensation Authority. However a claim for damages arising out of the disrepair of, eviction from or obligation to allow quiet enjoyment of residential premises is excluded even if it includes damages for personal injury (see Housing Category). Proceedings for assault and trespass are also excluded where substantive damages are not sought (see Family Category).

Note: “personal injuries” includes any disease and any impairment of a person’s physical or mental condition.

Clinical Negligence

1. Legal Help on matters and all proceedings which include:
 - (a) a claim for damages or a complaint to a relevant professional body in respect of an alleged breach of duty of care or trespass to the person committed in the course of the provision of clinical or medical services (including dental or nursing services); or
 - (b) a claim for damages in respect of alleged professional negligence in the conduct of such a claim.

Housing

1. Legal Help on matters and all proceedings which concern the possession, status, terms of occupation, repair, improvement, eviction from or quiet enjoyment of, or payment of rent or other charges for premises (including vehicles and sites they occupy) which are occupied as a residence, including the rights of leaseholders under the terms of their lease or under any statutory provision (including enfranchisement). Cases including homelessness, allocation, transfers and the provision of sites for occupation are also included.
2. For the avoidance of doubt, provided the proceedings arise in respect of premises occupied as a residence, the following are included in the category:
 - (a) Legal Help in relation to applications under Section 82 of the Environmental Protection Act 1990 for a statutory nuisance;
 - (b) proceedings under the Access to Neighbouring Land Act 1992;
 - (c) proceedings to recover possession under a mortgage or other charge;

- (d) proceedings under the Housing Act 1985 including those arising out of the right to buy provisions;
 - (e) proceedings under the Housing Grants Construction and Regeneration Act 1996;
 - (f) proceedings to set aside a legal charge or a transfer of property;
 - (g) proceedings in nuisance or trespass;
 - (h) proceedings under the Leasehold Reform Act 1967
 - (i) Legal Help and proceedings in relation to Housing Benefit
3. Proceedings for an Anti-Social Behaviour Order sought by a local authority against a tenant or a person living with him or her, or by way of an appeal against such an order to the Crown Court, pursuant to Sections 1, 1D or 4 of the Crime and Disorder Act 1998, and proceedings under section 1B of that Act

Immigration

1. Legal Help on matters and all proceedings concerning immigration, leave to enter or remain in the United Kingdom, removal or deportation from the United Kingdom, asylum, nationality and citizenship.
2. Proceedings before an Immigration and Asylum Tribunal and any related proceedings before the Upper Tribunal, High Court, Court of Appeal or Supreme Court.

Welfare Benefits

1. Legal Help in relation to all welfare benefits (including housing benefit, war pensions, state pensions and vaccine damage payments or similar benefits), and in relation to proceedings before any welfare benefit review or appeal body.
2. Any subsequent or related proceedings before a court.

Employment

1. Legal Help in relation to a contract of employment or service contract or any matter arising out of an employment relationship, including termination of employment, the enforcement of any statutory rights given to employees or workers, and data

protection matters and including Legal Help (but not representation) in proceedings before an Employment Tribunal.

2. Proceedings before an Employment Appeal Tribunal, proceedings for wrongful dismissal and proceedings before the courts arising out of any of the above.

Mental Health

1. Legal Help where the primary problem or issue relates to a point of English law concerning mental health, the Mental Health Act 1983 or the Mental Capacity Act 2005, including matters concerning education issues but only where based on mental impairment.
2. All proceedings before a Mental Health Tribunal (including those arising from criminal proceedings and any related proceedings before the Upper Tribunal, High Court, Court of Appeal or Supreme Court), all other proceedings under the Mental Health Act 1983 or Mental Capacity Act 2005 and any other proceedings where the primary issue is mental health, but excluding any matters falling within the Clinical Negligence or Personal Injury Categories.

Debt

1. Legal Help in relation to, and all proceedings:
 - (a) for the payment of monies due or the enforcement of orders in such proceedings, including those arising out of the occupation of premises but excluding any possession proceedings involving a contested counterclaim and any case where possession is sought on grounds additional to those relating to non-payment of monies due or where the occupant has a defence to possession; and
 - (b) for the recovery of possession of premises for failure to make payments due under a mortgage or other charge; and
 - (c) arising out of personal insolvency, including bankruptcy, administration, Debt Relief Orders or IVA proceedings whether the client is a creditor or debtor; but excluding representation in proceedings against parties in default of a fine or other order in criminal proceedings in the magistrates' court who are at risk of imprisonment.

Consumer and General Contract

1. Legal Help and all proceedings:
 - (a) concerning contracts and their enforcement, including claims for rescission or misrepresentation, for the payment of monies due, or based on discrimination in the

provision of goods or services, but excluding cases which in substance fall within the Housing or Employment categories; and

(b) concerning negligent misstatement or professional negligence other than cases within the Clinical Negligence category (or another civil category).

2. For the avoidance of doubt, the following proceedings are included in the category:

(a) proceedings under the Tort (Interference with Goods) Act 1977;

(b) proceedings as interpleader to determine ownership of property except in the case of land; and

(c) proceedings concerning data protection in a consumer context.

Education

1. Legal Help in relation to matters where the primary problem or issue relates to the provision of or failure to provide education or funding for education, including special educational needs. This would include such issues or problems relating to admissions, exclusions or DDA claims.

2. Any proceedings before a court concerning the above issues. This excludes claims for damages falling within the Personal Injury, though claims for damages arising out of a failure to provide adequate education or assessment for education are included.

Community Care

1. Legal Help and related proceedings concerning the provision of services or facilities in the community, in residential or nursing accommodation and/or hospital arranged by a Social Services or Health Care Authority/Agency to the client or a dependant, but excluding any matters falling within the Welfare Benefits or Clinical Negligence Categories and proceedings before the Mental Health Tribunal.

2. For the avoidance of doubt, Proceedings under Section 21 of the National Assistance Act 1948 are included, as are cases brought under the Mental Capacity Act 2005 regarding a person's capacity, their best interests (welfare and/or medical treatment) and deprivation of liberty issues. MCA cases may be undertaken under the Community Care category in circumstances where they may equally also be within the scope of the Mental Health category.

Actions Against the Police, etc.

1. Legal Help and proceedings concerning:

- (a) Assault, trespass, false imprisonment, wrongful arrest, interference with goods, malicious prosecution, personal injury or death in custody, misfeasance in public office or other abuse of authority or neglect of duty against any body or person, public or private, with power to detain, imprison or prosecute, excluding applications to the Mental Health Tribunal or the Immigration Appellate Authorities. Complaints and claims for damages are included whether or not they also fall within the Personal Injury or any other Category. However, claims for damages for clinical negligence are included only if the clinical negligence forms part of a claim which includes another cause of action against a body or person with power to detain or imprison.
- (b) Personal injury based on an allegation of deliberate abuse of any person whilst in the care of a public authority or other institution.
- (c) Applications to the Home Office under Section 133 of the Criminal Justice Act 1988 or the ex gratia scheme for compensation for wrongful conviction.
- (d) Claims to the Criminal Injuries Compensation Authority arising out of a matter falling within the category.
- (e) Claims for damages in respect of alleged professional negligence in the conduct of a matter included in the category.

Public Law

- 1. Legal Help and related proceedings concerning:
 - (a) the civil liberties or human rights of the client or a dependant, including under the Human Rights Act 1998, and matters involving the application of the European Convention on Human Rights (and other human rights instruments ratified by the UK) in English law; and
 - (b) public law challenges to the acts, omissions or decisions of public bodies, including challenges by way of judicial review or habeas corpus;
 - (c) Proceedings under section 222 Local Government Act 1972.

For the avoidance of doubt, this includes data protection and freedom of information issues, and matters which may also fall within the definition of any other category including crime.