

Information from the Ministry of Justice

Following the introduction of the new system of fee concession on 1 October, a number of queries and correspondence have been received from solicitors providing advice and assistance under the Family Legal Help Scheme, questioning why the courts need to inspect the original documents in support of an application for a fee concession.

As you know, the Civil Court Fees Consultation Paper 2007, contained a proposal to remove Legal Help as a criterion from an automatic remission for applicants in family proceedings, because since 2002, the financial eligibility criteria for Legal Help have been more generous than they were when this provision was originally introduced.

Legal Help is available without contribution to those with a disposable income equal to the upper limit for full representation, whereas previously it was broadly equivalent to the free limit. The effect of removing Legal Help as a criterion for an automatic full remission is that a recipient would need to apply for a remission.

The cost of fee concessions is met by the general taxpayer as part of the Ministry of Justice's resource budget. In the previous financial year, the taxpayer, in effect paid subsidies in civil and family proceedings of nearly £35 million in about 300,000 instances.

Her Majesty's Courts Service has a duty of care to ensure that the fee concessions are administered prudently and that necessary checks are in place to guard against abuse of the taxpayer's contribution.

One of the checks for court staff responsible for administering the system of fee concessions is to inspect original documentary evidence in support of an application. This is a practise that applies across other Government Departments, whereby if a recipient of a means-tested benefit or tax credit wants to obtain a range of services, then it is necessary for the recipient to show their relevant documentary evidence as proof of their entitlement to a concession.

Several correspondents have enquired whether courts would accept copies of the original documents that have been certified by solicitors when submitting applications for remission on behalf of their clients. Advice was obtained from our Internal Audit and Governance Divisions as to whether this would be possible.

I am pleased to confirm their agreement in allowing courts to accept copies of original documentation as long as they have been certified by a reliable source. As a result, we are currently revising our guidance and intend to advise court staff that copies of documentary evidence may be accepted from either a solicitor or an officer of the Citizens Advice Bureau. I stress that copies must be endorsed to certify that the signatory has seen the originals and that they are content the information is valid. In practical terms, the copy of the original document must be stamped to "certify that this is a true copy" signed and dated.

I am sure you will agree that the introduction of this practise will help minimise delays and unnecessary administrative burdens where a solicitor or a Citizens Advice Bureau is assisting an applicant. However, I must emphasise that the practise is not intended to

replace the pre-condition that court staff must check copies of documentary evidence correspond with the requirements for the concession being sought.

Revised guidance for court staff will be circulated early in the New Year. I would welcome any support that you may be able to give in disseminating this practise to solicitors providing advice and assistance and all those in Citizens Advice Bureaux offices.