



Preservation or recovery under the statutory charge and request to postpone enforcement

CLS ADMIN1

Your client's details

Our case reference number: _____

Title: _____ First name: _____ Surname: _____

Date of birth: ____ / ____ / ____

Does this claim cover more than one certificate? If so, give the other case reference numbers :

Your details

Account number: Roll number:

Name of firm: _____

Your case reference: _____

Contact name for enquiries: _____

Outcome of case

A client recovers property if their claim succeeds and preserves it if their opponent's claim fails in full or in part. The regional office will use the information on this form to help it decide:

- 4 what property was in issue in the proceedings, or substituted for property in issue;
- 4 of that property, what the client gained or kept,
- 4 what it is worth,
- 4 whether to agree to postpone payment of the charge.

The information on this form may also be used to tell the regional office:

- 4 how the outcome of the case compares with your firm's estimate of its prospects of success,
- 4 whether the cost justified the benefit,
- 4 whether your firm has complied with the regulations to secure the charge, and the information needed to secure the charge by registration.

The regional office may delay paying your claim until it is satisfied that the full amount of the charge has been paid or secured.

Where your client has paid sufficient monies to cover the amount of the charge please submit pages 1-3 only. Where your client requires us to postpone enforcement of the charge the rest of the form must be completed and signed.

What was in issue in the proceedings?

- 4 Please summarise the claim(s) and any counter-claim(s) and/or concession(s) made in the proceedings, including disputes or concessions in the pleadings, affidavits and correspondence.
- 4 List the assets, their value and in whose name(s) held.
- 4 Indicate what each party sought at the outset and at any point in the proceedings. Include whether either party sought an order for sale or possession of land (including a house, flat or business premises). (Continue this section on a separate sheet if necessary).

What was the outcome of the case?

- 4 Please provide a copy of the final order in the proceedings or the record of any agreement concluding the proceedings.
- 4 Give details of how your client has benefited from the proceedings. Include: money; land, including the right to occupy a house, flat or other land as well as the ownership of it; and any other valuable property or right. (Continue this section on a separate sheet if necessary).

What is the value of the property recovered or preserved?

- 4 Please give the value of every item of property recovered or preserved.
 - 4 Please give the title number(s) of any land, house(s) or flat(s) recovered or preserved:
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- 4 The Commission needs to know the value at the time of recovery or preservation. If the value of a house or flat has been agreed or assumed in proceedings, state that value and the amount due under the mortgage or any charge registered on the property before the recovery or preservation. If the property has been sold, state the sale proceeds. (Continue this section on a separate sheet if necessary).

Exemptions

- 4 Please state whether you believe the property may be exempt from the statutory charge and why having regard to regulation 44 CLS (Financial) Regulations 2000 (as amended) or regulation 94 Civil Legal Aid (General) Regulations 1989.

Solicitor's Certification

I certify that the information provided is correct.

Signed: _____ Date: ____ / ____ / ____
(A Solicitor or a Fellow of the Institute of Legal Executives)

Name: _____

Paying the Charge

- I have already sent a cheque for £ _____ to the Legal Services Commission to cover the deficiency to the Fund.
- I enclose a cheque for £ _____ being the full amount recovered or preserved.
- I enclose a cheque for £ _____ being the amount recovered so far.
- I enclose a cheque for £ _____ in respect of all costs, including legal advice and assistance fees, incurred or to be incurred against the Fund. I undertake that the total costs against the Fund will not exceed this sum. I wish to release the balance of the money I am holding to my client.
- The money is to be used to buy a home for my client or dependants. My client has completed and signed the relevant page(s) of this form.
- Non monetary recovery - please give details:

Fill in this page if your client wants us to postpone enforcement

If your client wishes the Commission to secure the charge on the home of a dependant or dependants, rather than his or her home, give details of the arrangement including the address your client will live at.

In ALL cases:

4 Please produce a copy of the Court's Certification that the property is to be used as a home.

Please estimate the amount of the total claim on the fund made or to be made by you or any other solicitor(s) £_____

Does anyone else own this property with your client, or will they in the future?

Yes

No

If 'Yes' please give details of the (proposed) arrangement including the name of the other owner(s) and their and your client's respective beneficial interests in the property and unless ordered by the court, why this is considered appropriate. Please confirm that any joint proprietor will agree to the registration of the LSC charge.

Unless you are going to register the Commission's charge yourself please give the address, including postcode, and if it is registered land, the title number.

Purchase price of property £_____

Size of prior mortgage(s) £_____

Client's contribution to purchase price £_____

Any other person's contribution to the purchase price £_____

If your client is purchasing a new home, has the transaction been completed? Yes No

Is your firm going to convey a new home to your client, or transfer the present home to his or her sole name? Yes No

If so, the Commission would like you to register its charge at the same time as the transfer. If another firm is doing the conveyancing please give us the contact details.

Date of intended completion: _____ / _____ / _____

If your client has recovered or preserved money to purchase a home rather than the home itself, were the proceedings family proceedings (as defined in Regulation 96 (1) of the Civil Legal Aid (General) Regulations 1989 and Regulation 2(1) Community Legal Service (Financial) Regulations 2000)?

Yes

No

Postponing enforcement - continued

Please supply brief details of your client's annual income:

If applicable, please supply brief details of the annual income of all proprietors/proposed proprietors of the property:

Is your client able to borrow funds from any existing mortgagee or other source in order to repay some or all of his or her statutory charge liability?

Yes

No

If yes, please confirm the total amount that can be borrowed : £ _____

If no, please set out what steps your client has taken to try to borrow funds from an existing mortgagee or other source. Please attach documentary evidence to demonstrate what steps your client has taken.

Data Protection Act - access to personal data

The information you provide in this form and any subsequent information we may receive will be used to process your application for Legal Aid. It will be kept in accordance with the Principles of the Data Protection Act 1998 and any relevant confidentiality provisions.

If necessary, we may verify or share the information you provide with other organisations, such as: the Department for Work and Pensions, HM Revenue and Customs, Land Registry, Companies House and on occasion Credit Reference Agencies. We will only share the information if it is necessary to protect public funds or where we are lawfully required to do so.

The Legal Services Commission may also process your information to produce management or research information. The results of our research will only be published in a statistical or anonymised form.

The information will be kept for as long as is necessary in order for the Legal Services Commission to fulfill its functions under the Access to Justice Act 1999. You have the right to make a formal request in writing for access to personal data held about you, to inspect it, and have it corrected if it is wrong.

Client's declaration - postponement cases only

All the information I have given on this form is correct.

I agree to the Legal Services Commission having a charge on the property described above.

I agree that the Legal Services Commission will charge me simple interest on the amount I owe at the rate set out in the relevant regulations. I understand that the rate of interest may change from time to time.

I agree not to do anything, and not to let anyone else do anything, that will reduce the value of the property.

I understand that I can make payments to reduce the amount I owe. The Legal Services Commission will use any payments I make to pay off the interest I owe. If there is any money left over, the Commission will use it to reduce the principal sum.

The Legal Services Commission shall not be bound by any changes or alterations made to these provisions.

Signed: _____ Date: ____/____/____

Name (in block capitals) _____ Case ref no _____

Contractual charge - registered land Charge of whole to Legal Services Commission

H M Land Registry Land Registration Act 2002

This page should be completed if you have recovered money which you wish to use to buy a home, or if you would like the Commission's charge to be transferred to a new property, or if you are transferring the property subject to the charge into joint names; and the property is REGISTERED land. If you complete this page of the form it must be signed and witnessed at the bottom.

You do not need to use this form if the property on which the charge is to be registered was itself recovered or preserved in the proceedings and the funded client is the sole owner.

Property

Title number of property _____ Date: ____/____/____

Address of Property _____
_____ Postcode: _____

Definitions

The Chargor/s _____
(Please enter the full names and addresses of all the registered proprietors of the land) _____

The LSC The Legal Services Commission, Recovery Services, 13th Floor, Exchange Tower, 2 Harbour Exchange Square, London E14 9GE.

The Principal sum The sums secured by the statutory charge, arising under section 16(6) of the Legal Aid Act 1988, or section 10(7) Access to Justice Act 1999 in relation to the account of _____
(Please enter your full name here)
with the LSC Fund under case reference number(s) _____

(Please enter your case reference number(s))

The Regulations The Civil Legal Aid (General) Regulations 1989 and any amendment thereto (whether before or after the date of this charge) and any other regulations which may, after the date of this charge, directly or indirectly replace it, with or without amendment.

1. The Chargor/s with full title guarantee charges by way of legal mortgage the above title number with payment to the Commission of:
 - (a) the principal sum;
 - (b) simple interest on the principal sum, at the rate prescribed by, and calculated and payable in accordance with, the Regulations.
2. The sum secured by this Charge shall become repayable on the happening of any of the following:
 - (a) any event which would cause the same to become repayable if this Charge were a charge postponed under regulation 97(3) of the Regulations;
 - (b) upon the Chargor/s (or his/their successors in title) exercising any of his/their powers under section 23 of the Land Registration Act 2002.

Signatures

4 This charge must be signed by all of the registered proprietors of the land and each signature witnessed

Signed as a deed by

Enter the name of the Chargor(s) in block capitals

Signature(s) of the Chargor(s)

In the presence of

Enter the names of the witnesses in block capitals

Signatures of the witnesses

Addresses of witnesses _____

_____ Post code _____

_____ Post code _____