

CLSAPP8 CHECKLIST



Please use the following checklist alongside form CLSAPP8 to ensure you submit the correct information.

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- Is the form the current version? The current version of the form is Version 14 – October 2010, but you can check for the most up to date version at www.legalservices.gov.uk/civil/forms/7452_7541.asp#download
- Is the client's address (mandatory) the most up to date address you have on your file?

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- Please set out what amendment(s) to the certificate you are seeking at the top of page 3.
- A brief summary of the work you have completed to date is required. Details of how many hearings have been attended is useful as well as information regarding any disbursements that you have had to incur.
- Please provide dates of any forthcoming hearing(s), the length of time it is listed for and details of any disbursements (expert's reports etc) that have been ordered and the cost of them (if known) along with confirmation as to your client's share of the disbursement.
- Specific breakdown of future costs such as cost of the hearing and preparation work.
- If you are applying for an amendment to cover the final hearing, please provide information as to why the final hearing cannot be avoided and what matters within those proceedings specifically remain outstanding.
- If a change of solicitor amendment is being applied for, please provide details of why the change is being requested and whether or not the complaints procedure has been instigated with the firm who currently hold the certificate. If the current solicitors agree to the transfer, please indicate this on page 3.

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- Exercising devolved powers to amend an emergency certificate should only be done when the substantive certificate has not been considered by the LSC and the work to be carried out is within the first eight weeks of the initial devolved powers being used. Please remember to include the date the amendment was granted under devolved

powers. Devolved powers should not be used on an APP8 to amend a substantive certificate in a family case.

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- Please complete the estimate of costs with details of your costs to date and an estimate of your costs between completion of the form and settlement/disposal and/or your costs to trial/final hearing. Please note that the estimated costs to trial must be completed but the cost limitation cannot be amended to that figure until the scope limitation covers the final hearing.

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- The benefit to client section should be completed in family cases where there are financial benefits in issue (e.g. lump sum, property adjustment, maintenance).

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- The Ancillary Relief – Private funding section should be completed where an amendment is being sought to cover the final hearing in an ancillary relief case. Please refer to paragraph 20.20 in the Funding Code Decision Making Guidance.

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- Please ensure that the prior authority details have been completed, especially the expert's name and type, the maximum authority you are seeking (i.e. what your client is to pay) and the expert's hourly rates for preparation and travel (if any). Remember also to indicate whether the expert is to be jointly instructed.
- Where there are a number of parties to an action e.g. Children Act applications, but only one of the parties may be legally aided, where there is an order that the costs of an expert's report is to be borne under the one legal aid certificate, we will require evidence that the court considered the provisions of Section 22(4) Access To Justice Act 1999.

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- Make sure that the form is signed and dated within two months of submission to us.

ATTACHMENTS REQUIRED

- Copy of the most recent court directions.
- Copy of CAFFCASS/s.7/s.37 report if applying for the final hearing in a s.8 Children Act or public law (means/merits tested) case.

- Copy of written complaint and solicitor's written response when applying for change of solicitor if client is dissatisfied with present firm.

- A copy of the expert's quote where prior authority is sought.

NOTES

To assist with the processing and turn around time of amendments to legal aid certificates and to reduce the need for rejection, please check the following before submission:

- If a finding of fact hearing has been listed on Section 8 proceedings, please be aware that the Family Help Higher – Children limitation covers you to attend this hearing and no amendment to the scope of the certificate is necessary.
- Please check your certificate's costs and legal limitations, (e.g. are you covered to final hearing and is the certificate live and not show caused?)
- Please submit the APP8 in **good time** for the final hearing.

MERITS CRITERIA

The criteria to be addressed when applying to amend a certificate to cover a final hearing are:

- Prospects of success (Funding Code Criterion 11.11.5 – Legal Representation will be refused if prospects of success are poor)
- Cost Benefit (Funding Code Criterion 11.11.6 – Legal Representation will be refused unless the likely benefits to be gained from the proceedings for the client justify the likely costs, such that a reasonable private paying client would be prepared to take or defend the proceedings in all the circumstances)

For Legal Representation to be continued, the issues remaining between the parties must satisfy the cost benefit/ prospects of success criteria.

The Funding Code guidance states:

“Issues of **detail** (e.g. frequency and extent of contact including whether staying contact should take place) rather than issues of **principle** (e.g. no direct contact) are unlikely to justify a grant, in particular as a reasonable fee paying client would be unlikely to continue contested proceedings but would rather seek to compromise the issue or issues. The fact that the parties cannot agree does not of itself justify the grant or continuation of public funding.”

Where the prospects of achieving a satisfactory outcome are described on the CLSAPP8 as being Borderline, Poor or Unclear, you are asked to indicate why you have made this assessment and to clarify why, in the light of the assessment, further funding should be given.