

NEW IMMIGRATION SPECIFICATION – FREQUENTLY ASKED QUESTIONS

Update: 1 July 2004

At the request of immigration suppliers, new FAQs will now be issued separately. All previous FAQs can be found on the LSC website.

PREVIOUS LEGAL ADVICE

Does the previous supplier need to transfer the entire file when a client changes representative?

- Previous Legal Advice Rule 12.2.2 (5)

Annex 12A of the Guide to the Professional Conduct of Solicitors clarifies which documents must be transferred. Where delay persists, you should contact the Law Society Consumer Complaints Service. You may also refer this to the Office of the Immigration Services Commissioner. In either case, you should provide us with the name and address of the previous supplier on any application for an extension to a cost limit.

CASES WHICH REQUIRE SPECIAL AUTHORISATION

Do unmarried partners count as close family members for Oakington and Harmondsworth cases?

- Exceptions Rule 12.2.13 (4) (a)

Yes. The definition of a close family member for the purpose of the above exception will include unmarried partners.

Does five hours work include travel and waiting time for Oakington and Harmondsworth cases?

- Exceptions Rule 12.2.13 (4) (b)

No. The purpose of the exception (which was included at the request of immigration suppliers) is to allow a representative who has already carried out substantive work for a client to continue representation in order to avoid unnecessary duplication of work and to provide continuity for the client. Travel and waiting do not amount to substantive work.

CLR

If my client's appeal is remitted to another Adjudicator, do I have a new cost limit of £1200.00?

When an appeal is remitted, there are no automatic new limits under CLR. You should apply to extend the existing cost limit for further work that is necessary, in the usual way. This is confirmed in the Guidance to costs

extensions issued in February 2004 and will also apply to second or further appeals to the IAT.

Can I instruct an independent interpreter to attend the substantive IAT hearing?

- Attendance of interpreters Rule 12.4.5

Where your client attends the IAT hearing, it may be appropriate for you to instruct an interpreter to enable you to communicate with your client and take instructions. Please note that the Commission will shortly issue a consultation paper on the role of interpreters in publicly funded immigration work, and this provision may be subject to change.

STAGE BILLING

Do I have to close the Legal Help file when I grant or apply for a grant of CLR?

There is no provision in the new Immigration Specification that says you must close a Legal Help file when the matter proceeds to an appeal. As before, Legal Help can run concurrently with CLR.

Is there stage billing for work carried out under CLR?

Yes. This is set out in Rule 12.6. However, due to the high level of queries we are receiving about this Rule, we are proposing to simplify the arrangements. Please see the attached Proposed Changes to the General Civil Contract from 1 October 2004. In the meantime, the existing Rule will apply as follows:

Two bills may be submitted for work done under CLR. This will depend on how far the appeal proceeds at the Immigration Appellate Authority.

- **Rule 12.6 (b) sets out three alternative options for the first bill:**

i) after the initial Adjudicator's decision;
This should be used if you do not proceed with an application to the IAT. This stage should also be used where an application to the IAT is granted. The further CLR costs, including the costs of the application to the IAT, will then be claimed under Rule 12.6 (c).

If the Home Office makes an application to the IAT, you should claim CLR costs to date at this stage and if the appeal proceeds to the IAT, you should claim further CLR costs under Rule 12.6 (c).

OR

ii) after a refusal of leave to appeal to the Tribunal;

This should be used if you make an application to the IAT, which is refused.

OR

iii) when you have completed the work if earlier.

This should be used if the appeal does not proceed to an initial hearing before an Adjudicator.

- **Rule 12.6 (c) covers all further CLR costs.**

This is for further CLR costs, including those where the IAT remits the appeal to another Adjudicator. Only those costs incurred since stage (b) should be claimed.