



Legal Aid
Agency

Controlled Work - Audit Trends

Version:	Issue date:	Last review date:	Owned by:
2.0	04/04/13	29/11/13	Angela Pruce

Version History

Version:	Date	Reason
1.0	01/04/13	First Release.
1.1	04/04/13	Second Release with additional paragraph.
2.0	29/11/13	Updated version.

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1. Overview

In order to be paid in full for your Controlled work, the Legal Aid Agency requires that you follow Contractual regulations in relation to costs claimed, hold appropriate documentation on file and make it available to us on audit.

The purpose of this document is to help you identify how to adhere to these requirements. To this end, we have identified some common areas found that do not comply with the rules and associated guidance, so resulting in nil-assessments and reductions in costs on LAA audits/assessments.

For additional guidance on submitting Escape Fee Claims the LAA would recommend utilising EC Claim 1 checklists which have been produced to assist in ensuring Escape Fees are claimed correctly. These can be located at: <http://www.justice.gov.uk/forms/legal-aid-agency/civil-forms/controlled-work-claims> (similar checklists for Certificated Claims can be found at: <http://www.justice.gov.uk/forms/legal-aid-agency/civil-forms/claims>).

2. General Issues – Civil Specific

Non-submission of files:

- Under Clause 9 of the Standard Civil Contract Standard Terms, all case files must be retained and provided for audit upon request from the LAA. The specific files requested must be provided, and substitutions cannot be made.
- Where the matter is still ongoing under another level of funding, the file relating to Controlled Work costs must still be provided for audit. In this scenario photocopies of all documentation relating to the claim will be accepted, although the original Controlled Work form will be required.
- Where the file has transferred to another provider, it is the original firm's responsibility to provide a copy of the file or obtain the original file from the new provider. Prior to transfer providers should obtain a written undertaking from the client's new solicitors agreeing to provide the file if requested (in accordance with 8.8 of the Standard Civil Contract Standard Terms). Should the new firm fail to comply with a request after such an undertaking has been signed the original provider will not be penalised for non-production of the file.

Financial Eligibility:

- Satisfactory evidence of income and capital is not always retained on file. Under the Standard Civil Contract General Specification (Rule 3.35 of SCC 2010 Amended version/ Rule 3.23 SCC 2013) you are required to obtain (and retain) satisfactory evidence of means before financial eligibility is assessed. Point of Principle CLA 55 confirms that "a claim for payment should not be made to the LSC without such evidence having been obtained and retained on file".
- Providers are reminded that effective of 1st April 2013 all clients must have a capital assessment at the outset regardless of whether they are passported on income or not. Failure to assess capital will result in a nil assessment.
- Where an employed client is paid weekly providers should obtain 4 weekly wage slips to cover the entire computation period, in order to accurately assess the client's financial eligibility, as specified at LAA Manual Volume 3 Part C section 2.1.5. Where it is not possible to obtain 4 slips this should be justified on file and attempts should be made to obtain additional supporting evidence of the client's income.
- Additionally evidence of expenditure is required in certain circumstances such as where the clients housing costs exceed a third of their income, this evidence should always be obtained where the expenditure makes the difference between the client being eligible for

Controlled Work or not. See section 6.4.7. of the LAA Manual Volume 3 Part C for further details.

- The Computation period for evidence of means is the calendar month ending on the day of the application. The evidence obtained should be one of the types listed as acceptable at Section 12.2.5 of –the LAA Manual Volume 3 Part C.
- Where Standard Civil Contract General Specification Rule 3.36 (a) 2010 Amended version / Rule 2.34 (a) 2013 version, states that an assessment of means can be completed where it is not practicable to obtain it before commencing the Controlled Work, this refers to exceptional circumstances where urgent work must be undertaken for the client. In this situation the provider must assess eligibility based upon whatever information is available; an assessment must be recorded on the form which the client must sign as their affirmation of eligibility. If a client simply attends the first appointment without the evidence of means, the provider should not commence Controlled Work as this is not an exceptional circumstance.
- Where friends/family members are supporting the client, a signed and dated letter confirming the level and extent of support must be retained on file. This is a requirement at Section 12.2.16 of the LAA Manual Volume 3 Part C. Where the support letter is dated after Controlled Work commences this letter must clearly state that the client was being supported throughout the computation period.

Assessment of Capital:

- Providers are reminded that all cases opened from 1st April 2013 onwards require an assessment of the client's capital. Clients who are in receipt of a Passported Benefit are only passported on income and a full assessment of their capital must be undertaken.
- In most cases specific evidence of capital is not required, however evidence should be obtained in cases of doubt; where there may be reason to believe the client has intentionally deprived themselves of capital or shows indicators of a wealthy lifestyle. Evidence should also be obtained where the client declares capital just under the limit (£3000 for Immigration CLR matters, £8000 in all other cases).
- Providers are also advised to ensure that capital which is Subject Matter of Dispute has been correctly assessed:
 1. For cases opened on or after 1st April 2013 assets which are SMOD are no longer disregarded in their entirety from assessment on Controlled Work, the SMOD disregard has been capped at £100,000.
 2. Only items which are specifically under attack from the opponent can be treated as SMOD, where the opponent has not made any specific claim on the assets (or is not aware of their existence), these must be assessed as capital in the usual way.
 3. Capital can only be treated as SMOD where it is subject matter of the dispute that the client is seeking legal assistance on. Therefore unless the case involves assistance with division of assets related to from divorce/civil partnership dissolution/TOLATA or housing repossession no capital can be assessed as SMOD.

Form Completion & Retention:

- Where both income and capital sections (where applicable) of the Controlled Work form are not fully completed it cannot be determined that the assessment of eligibility was carried out fully and correctly at the outset of the matter and this will result in a nil assessment of the claim upon assessment by the LAA.
- Where the client indicates they have no income/capital the provider must not leave the form blank, but indicate the lack of resources via zeroes in each column (lines through each column may also be accepted provided it is made clear on the form).
- Failure to complete the form fully and correctly occurs often where:
 - i. The client was not in receipt of a passported benefit and the provider had incorrectly left the income and/or capital sections of the form blank. Providers are reminded that they must not passport a client without evidence of current

- payment of a Passported Benefit (12.2.16 LAA Manual Volume 3 Part C) and that the client must be legally entitled to the benefit (3.1.2 LAA Manual Volume 3 Part C).
- ii. Also where the client has a partner whose means should have been aggregated, providers are reminded that partners must still be assessed where the parties are physically separated and the relationship is subsisting, this includes where one party is in prison and asylum cases. This is in accordance with Section 4.2 of Volume 3 Part C of the LAA Manual.
 - iii. Where the client has a partner who is receiving one of the passported benefits but the client themselves is not included in the benefit claim, eligibility must be assessed in full and the client cannot be passported, in accordance with Section 5.1.3 of Volume 3 Part C of the LAA Manual.
 - iv. Providers are reminded that effective of 1st April 2013 for any New Matters opened a client in receipt of a Passported Benefit relates solely to income and the client **must** also be assessed fully on their capital. Failure to complete the capital section of the requisite form for any client will result in a nil assessment.
- The original Controlled Work forms are not always retained on file. Standard Civil Contract 2010 Rule 3.13 requires that the fully completed Controlled Work form be retained on file. The LAA requires sight of the original form signed and dated by the client.
 - Where files are stored electronically a scanned version of the Controlled Work form is acceptable, provided it is an electronic PDF copy of the entire form. Photocopies will not be accepted.
 - Providers are also reminded of the importance of completing the most recent version of the relevant Controlled Work form when opening a New Matter. Any cases opened using outdated forms from 1st April 2013 cannot be claimed and will be nil assessed on audit. The most recent forms are: CW1 Version 22, CW2 (IMM) Version 13, CW1 &2 (MH) Version 13 and CW1PL Version 5.

Disbursements:

- Often disbursements are not sufficiently evidenced on file. Disbursements must be evidenced, in the form of a receipt, invoice or other supporting documentation and this should be retained on file.
- The Costs Assessment Guidance requires at 3.16 (of both 2010 and 2013 versions) in the Fee Earners Travel Expenses section that claims for up to £20 do not normally require invoices or receipts. Although not specified elsewhere in guidance the Commission has does not usually require evidence for any other individual disbursement incurred which is under £20 in value, although it must still be apparent from the file what the claim related to and why the disbursement was required.
- For travel claims where public transport is not used there should be justification on file of the time and/or cost saving of using a car for the journey. Taxi travel should be similarly justified.
- Clients travel costs to attend the supplier cannot be claimed except in the specific circumstances set out in 8.49 -8.51 of the SCC Immigration Specification 2013 (previously in Focus 60 pg 22).

Expert Fee claims – Generally:

- Providers are reminded that for a number of experts there are specified maximum rates listed in Schedule 5 of the Remuneration regulations which cannot be exceeded other than in the exceptional circumstances listed at paragraph 2 of these Regulations.
- Providers are also advised that the expert's context and the reasonableness of their fees will also be considered including whether it is more appropriate to instruct a more local expert. If the Provider is experiencing difficulties in instructing experts in the locale this needs to be made apparent on file.

- Additionally providers should not be instructing experts who insist on a minimum fee (for example an interpreter claiming a minimum of 1 hour where the actual interpretation time is less). Providers are expected to ensure that fees paid to experts for their services are reasonable and satisfactorily justified on file. The LAA would expect providers to demonstrate that they have contacted a number of experts initially to ensure the costs of whoever is then instructed are reasonable and reflective of current market rates.

Expert fee claims – Interpreters:

- Invoices provided for interpreters often do not contain sufficient information to justify the claim. As a minimum the LAA expects the following information to be detailed on the invoice:
 1. The interpreters full name (and name of the service they work for unless self-employed).
 2. Provider firm name, client name, date of appointment, language.
 3. The address the interpreter has travelled from to the appointment (or just a postcode if it's their home address) – if only their “office” address is given then we can only be expected to allow travel time in accordance with that address.
 4. The interpreter’s hourly rate for interpretation time, travel and waiting time.
 5. The breakdown of actual costs claimed for interpretation, travel time, waiting time (if applicable) in hours and minutes and the value in £.
 6. The travel costs (and whether this is mileage, train fare, etc).

VAT Issues:

- In some instances the incorrect rate of VAT has been claimed. It is the date that the matter concluded which determines whether VAT is claimable at 15, 17.5, or 20%. It is important to check that the correct case concluded date is recorded on every submission in order to ensure the correct VAT amount is claimed.
- VAT on disbursements should be claimed at the rate applicable for the matter concluded date and not the rate applicable at the date the disbursements were incurred.
- VAT can only be claimed by providers who are VAT registered. The LAA requests that each provider confirms their VAT registration number at the time files are requested for assessment.
- VAT cannot be apportioned across a claim; the client’s status in the UK at the outset of the matter determines whether the case will be VATable. Errors have been found on Immigration/Asylum cases where clients receive status to remain in the UK at the end of the matter and VAT has either been incorrectly applied across the entire claim or apportioned to the work at the very end of the matter. It should be noted that if work is done to close the file after determination of the client’s status, VAT should not be apportioned. Providers should refer to the VAT guidance at Pg10 of Focus 49 which clarifies that for supplies of legal services in relation to applications to remain in the UK, the client is treated as belonging in their country of origin even if a final bill is rendered after the client has been granted a right to remain in the UK.

Previous Legal Advice:

- Where the client has received previous legal advice on the same matter there must be justification on file as to why a new matter start is appropriate in this case. This applies both when the previous advice was with another provider and when a former client returns to the same provider.
- Providers are required to make reasonable enquires to establish whether previous legal advice has been given to a client, failure to demonstrate compliance with this will result in any claim made being disallowed. Furthermore where the client has received previous advice and refuses to consent to the previous provider being contacted the new provider cannot make any claim for payment relating to this matter.

Unjustified Separate Matter Starts:

- Providers are advised to only open separate matters in circumstances where the client has “separate and distinct” legal problems as required by Standard Civil Contract General Specification Rule 3.42 of SCC 2010 Amended version/Rule 3.35 SCC 2013.

File Reviews:

- Providers are reminded that as a general principle time should not be claimed for reviewing/perusing the file and that fee-earners are expected to be familiar with their files. The Costs Assessment Guidance sets out at section 2.39-2.41 when time may be claimable for consideration of the file; providers are advised to ensure there is sufficient justification recorded on file to justify any claims of this nature.

3. Category Specific – Family cases

Private Law

As of 1st April 2013 Private Law Family (Children, Finance and Divorce) cases will be brought back within the scope of Legal Aid only where there is evidence of Domestic Violence or Child Protection issues.

Evidence of Domestic Violence/Child Protection:

- The requirements on what is acceptable evidence must be adhered to as there is no discretion for the evidence, and without meeting the requirements exactly as set out for each different type of the specified evidence a case cannot be commenced. The evidence requirements for Private Family Law matters have recently been updated in October 2013 to include points of clarification. The revised document can be found at: <http://www.justice.gov.uk/legal-aid/funding/funding-guidance>.
- If you open a Private Law Family case which has been brought back into the scope due to evidence of Domestic Violence/Child Protection then the following should be taken into consideration:

Fee Levels:

- There are occurrences of Level 2 Private Law family fee being incorrectly claimed where the Significant Family Dispute criteria set out in 2013 Standard Civil Contract -7.60, is not being met. In order to move to Level 2 there must be evidence in the file of involvement by the provider in substantive negotiations with a third party and the existence of negotiations must be clearly evidenced on file. The provider must be actively engaged in the negotiations, which must consist of at the very least a proposal, response and counter proposal.
- Settlement fees can only be claimed in financial issues where there has been a signed consent order or other formal written agreement. Providers are advised that where there is a clean break order this does not necessarily meet the criteria for Level 2 work, as without a significant dispute neither the Level 2 finance or settlement fees would be claimable in these cases.
- In Children issues the settlement fee can only be claimed where there has been an agreement between the parties and the criteria at Standard Civil Contract 2012 section 7.65 are met.
- The divorce petitioner fee can only be claimed where the provider has drafted a petition which is issued by the courts. Where a petition is not issued only the Level 1 fee is claimable. Where a file is transferred during the life of the case the provider who drafted the petition which was subsequently issued are entitled to claim the petitioner fee, the decree nisi/absolute does not have to have been pronounced in order to claim the fee.

Separate Matter Starts:

- Standard Civil Contract 2012 section 7.161 requires that only one Legal Help matter start may be opened in family cases for the same client except where the second matter relates to an entirely separate family dispute (e.g. where there are different opponents).

Public Law**Clarification on Fees:**

- It appears there may still be some confusion regarding which Public Law fees can be claimed and which forms should be completed for each level of work. To clarify:
- Claiming Level 1 FPC01 – This fee can be claimed where advice is given under Legal Help on any family public law matter as defined in section 7.33 of the SCC 2013 Family Specification. This work is subject to means testing and a CW1 Legal Help form must be completed at the outset of the matter.
- Claiming Level 2 FPC02 – In accordance with 7.38 of the SCC 2013 Family Specification all 3 of the following criteria must be met in order to claim this fee: The Local Authority must have given written notice of potential S31 proceedings (but not yet issued proceedings), your client must be a parent (as defined at SCC 7.37) and they must be seeking advice and assistance with a view to avoiding these proceedings. If any of the 3 criteria are not met the Level 2 fee cannot be claimed. This fee must only be claimed in relation to advice and assistance relating to Section 31 Care Proceedings, all other Public Law family cases can only be claimed under the Level 1 fee. Where you commence work at Level 2 this work is not subject to means testing and a CW1PL form must be completed.
- Claiming FPC03 – This fee can only be claimed where you have given initial advice under Legal Help on a family public law matter, which subsequently went on to meet the criteria for Level 2. This would only be applicable where the client is a parent and sought advice prior to receipt of a written notice of potential S31 proceeding from the Local Authority. (Where the client has already received the written notice prior to instructing and is a parent, the case must commence at Level 2 and be claimed as FPC02). Under FPC03 both Level 1 and Level 2 fees are being claimed and both a CW1 Legal Help form and CW1PL form need to be completed and retained on file.
- Where the case meets the criteria to claim both the Level 1 and Level 2 fees this should be reported as a single claim using FPC03 and not 2 separate claims one under FPC01 and one at FPC02.

4. Category Specific – Family Mediation

Eligibility:

- At each Assessment meeting the client's means must be assessed and the relevant evidence obtained to support eligibility. A CIVMEANS7 form must be completed and retained on file where a client is assessed as eligible even in those cases where the matter does not progress beyond the Assessment meeting to full mediation.

Co-Mediation:

- In those cases where 2 mediators are used, a full justification for the use of co-mediation must be clearly recorded on the file. The provider should refer to the reasons outlined in paragraph 2.23 of the Family Mediation Specification to justify the decision. In those cases where satisfactory justification is not provided, the co-mediation fee will be replaced with the corresponding Sole mediation fee.

Agreed Proposal Fee:

- The Agreed Proposal fee should only be claimed where the agreement is drafted at the conclusion of the mediation and represents the finalised agreed proposals. The production of summaries throughout the course of each mediation session outlining progress, interim or potential agreements would not constitute an agreement and the agreed proposal rate should not be claimed in these circumstances.

Assessment Meetings:

- Since the introduction of LASPO on 1st April 2013, payment for Assessment Meetings can only be claimed where at least one of the client's is correctly assessed as being financially eligible for Legal Aid funding.

5. Category Specific - Immigration

VAT:

- As stated in the separate VAT section above VAT is often claimed where the client does not have status in the UK. Providers are advised that where a client once had status but does not at the time of instruction VAT cannot be claimed. Focus 49 states: "Where an individual is granted the right to remain in the UK and this is subsequently revoked for whatever reason, he should be treated for VAT reasons, as resident in the UK until such time as the issue is concluded (including the time taken to go through any appeal process)."
- There has been some misinterpretation of this guidance, to confirm the above does not mean that if a client has had at any point a valid form of leave to remain which was revoked and they have no status currently, VAT can be claimed.
- The above provision relates to where a client has had their leave revoked and is in the process of appealing the legality of such revocation. Where such an appeal has not been lodged or appeal rights have been exhausted, the client is not VATable.
- The focus guidance also does not apply where a client's leave expires and no attempt is made by the client to extend/vary their leave prior to the expiration, in this scenario the client is deemed an overstayer and not VATable.
- To confirm the above is in relation to claims for Profit Costs/Standard Fees and Counsel Fees. Disbursements where a third party (i.e. an interpreter) is instructed are unaffected by this VAT guidance as the supply of services is to the provider, not the client therefore the client's status has no bearing on whether VAT is claimable by the third party.

Eligibility – NASS Support:

- Providers are reminded that only clients currently in receipt of Section 95 (current asylum seekers) or section 4 (failed asylum seekers) payments under the Immigration Asylum Act 1999 can be passported on income. Clients receiving all other forms of NASS Support must be subject to a full assessment of eligibility.
- Evidence of receipt of NASS Support must be in the form of confirmation from the paying agency (NASS or the Local Authority) that the individual is in receipt of support and needs to specify which type of support. Written evidence should be less than 6 months old. (NASS vouchers are now largely obsolete, however where vouchers are paid, a copy of a voucher is acceptable evidence.) Copies of Post Office receipts, ARC cards, NASS support application forms and third party letters are unacceptable to demonstrate receipt of NASS support.
- Providers are reminded that section 4 & 95 NASS support is only a Passported Benefit when opening a matter in the Immigration & Asylum categories, for all other categories of law the client must be assessed fully on income and capital.

Accreditation:

- Insufficient evidence that the caseworker is accredited to the correct level. Providers are required to provide details of accreditation status for all caseworkers at the outset of an

audit/review. This evidence must be in the form of certificates showing the fee-earners accreditation level, where the accreditation has expired evidence of re-accreditation must also be provided.

- It is not always clear from the file who has attended on the client. File notes should show the name of the person undertaking each item of work. This will enable auditors to establish whether the work has been undertaken by a suitably accredited caseworker.

Hourly Rates cases:

- Where hourly rates cases are requested for audit a running record of costs should be submitted with the file of papers. The running record should be IT based and contain details of the items of work claimed and the date on which this work was undertaken. Where stage bills, including disbursement stage bills have been submitted this should be clearly shown on the running record of costs.

Costs Extensions:

- Where a costs extension has been applied for and obtained this must be clearly recorded on file. Without this information costs will be capped at the relevant limit.

Incorrect Fee Scheme:

- A number of errors have been found where the case has been claimed under the Standard Fee scheme but should have been remunerated at hourly rates (and vice versa). Providers are reminded that the specific cases claimable at hourly rates are listed in Rule 8.77 of the 2013 Standard Civil Contract and any case not listed there is claimable as a Standard Fee.

Immigration Removal Centre Work:

- Providers are reminded that as of 15th November 2010 all work relating to clients who are being detained in an IRC is subject to Exclusive Contracting. In order to open a Matter Start for any client detained in an IRC a provider must hold an Exclusive Schedule for that specific Removal Centre.
- SCC 2013 Immigration Specification rule 8.6 lists the only circumstances where a provider without an Exclusive Schedule may take on a client detained in an IRC. Where you open a Matter Start in accordance with this rule it must be clearly recorded on file how the criteria at 8.6 has been met. Furthermore providers without an exclusive schedule cannot claim these matters at Hourly rates, only the relevant Graduated Fee is applicable.

Specialist Legal Advice not required:

- Providers are reminded that there must be a legal issue requiring specialist advice in order to justify a Matter Start. Clients do not require specialist advice and assistance in making the majority of immigration applications this includes (but is not limited to) applications for; citizenship, travel documents, passports, entry clearance visas, EEA residence documents, family reunion, extension of leave for a spouse/fiancé/ partner of a British Citizen or settled person. Factual complexity should be distinguished from legal issues.
- A lack of understanding by a Client through either language or other difficulties does not necessarily mean that there exists a legal issue that would justify the provision of Controlled Work. In each of the above examples it is not expected that a matter start would often be justifiable at the Legal Help stage, however for an appeal against refusal of such applications specialist legal advice is more likely to be required.
- Providers are however reminded that for any Matters started on or after 1st April 2013 advice in relation to all of the above matters is no longer in scope.

Providers are advised to complete the training module available on <http://legalaidtraining.justice.gov.uk/> entitled "Immigration Controlled Work How to Submit Claims Correctly".

Providers may also find it useful prior to billing to refer to the 5 point checklist at <http://www.justice.gov.uk/legal-aid/newslatest-updates/civil-news/immigration-and-asylum-five-checks-that-will-pay-off>.

6. Category Specific - Housing

Disrepair Cases:

- In accordance with Paragraph 35 of Schedule 1 of LASPO Housing Disrepair matters are only brought back into scope where there is “serious risk of harm”. Providers must ensure that there is sufficient justification on file of the serious risk: this should include details of the medical impact of the disrepair on the occupants of the property/ how their safety is at risk. Obtaining photographic evidence of the disrepair is also advisable. Where there is no serious risk evidenced on file this will result in nil assessment.

7. Category Specific - Mental Health

Remote Payments:

- Providers have been incorrectly claiming for remote fee payments by selecting the ‘additional travel payment flag’ on submissions. This flag relates to travel to attend clients at a LAA designated ‘remote’ hospital, however no hospitals have to date been designated as remote, therefore there are no circumstances when this payment can currently be claimed.

Adjourned Hearing Fees:

- Providers have on occasion neglected to claim an adjourned hearing fee when entitled to do so once a tribunal hearing has been adjourned.

Renewal Hearings:

- Hospital Managers’ renewal hearings not being rolled back. If a provider is instructed to attend a section 20 hospital renewal hearing the costs of the matter will roll back into the period to which it relates not necessarily the period in which the application is heard. If you had a file open in the period into which you are rolling back then the costs of the renewal will fall to be claimed under that file.

8. Category Specific – Crime

Financial Eligibility:

- Auditors have noted that where financial eligibility tests apply to the provision of Advice & Assistance or Advocacy Assistance, evidence of income has not been retained on file. This must be provided before the assessment of the clients means is undertaken in accordance with the Standard Crime Contract Specification, Part A3.
- Providers are advised that they may assess the clients means without accompanying evidence where: It is not practicable to obtain it before commencing Contract work; or Pre-signature telephone advice is given; or Exceptionally, the personal circumstances of the Client (such as age, disability or homelessness) make it impracticable for the evidence to be supplied at any point during the matter or case.
- In Prison Law matters there is often an assumption by providers that all prisoners are ‘single’ and have no bank account, savings or assets / capital on the outside or any income. Also there is often no evidence of means obtained whether a partner has been declared or not. Please refer to guidance in the Criminal Bills Assessment Manual (Version 1 – April 2013). It has been noted that often where there is no income or capital the form CRM1,

providers leave the form blank, cross through the relevant sections or put 'N/A'. These sections should be annotated throughout with either '0' or 'nil', or it will look as if no assessment has been considered or undertaken.

- In Associated CLS matters there is often no evidence of an assessment of financial eligibility, furthermore the correct Legal Help forms are not always used.

Noting times of calls on files:

- Auditors have noted that the timing of calls is not always recorded on files. The file should show all relevant times of telephone calls made or received. For example, the time the call was accepted from the DSCC and the time the client was first contacted (either by telephone or in person). This will enable auditors to establish if the client was contacted within 45 minutes. Please refer to the UCC part B1.1.13 (6) and the Standard Crime Contract, Part B9.23.

Attendance on client:

- It is not always clear to an auditor who has attended on the client. The file should show the name of the person attending the client. This will enable auditors to establish if a suitably qualified person undertook the attendance. See UCC B1.1.7 and B1.1.8 and the Standard Crime Contract, Part B9.26.

Police Station Telephone Advice Fixed Fee:

- To claim the above you must have spoken with your client and if an advice call is claimed, the file should show what advice was given to the client. Please refer to the UCC, Part B1.20 (2) and the Standard Crime Contract, Part B9.11.5.

Representation Orders:

- The original Representation Order/s must be retained in the file for audit purposes and must cover all the work claimed for. Failure to retain this will result in all costs being disallowed.
- When claiming Standard Fees you can also claim travel, waiting and disbursements in addition to the fee, however, for Revised Standard Fees (Designated Area) you can only claim disbursements in addition.
- Representation Orders dated after 3rd October 2011 cannot attract the higher London fees as these have now been abolished.

Series of Offences:

- The LAA has noted that a number of firms are claiming separate fees for matters which are classed as a series and so only one fee is claimable. For guidance on what are classed as a series of offences, and examples, please refer to your Unified Crime Contract, Part B2.2.10 and the Criminal Bills Assessment Manual, Version 12 January 2008, Part 6.3, Criminal Bills Assessment Manual, Version 1 April 2013, 6.6 and the Standard Crime Contract, Part B10.68.

Travel and Disbursements:

- Providers are routinely visiting prison to take instructions, the Standard Crime Contract Specification, Part B paragraph 12.18 requires Advice and Assistance to be provided wherever possible by correspondence, phone or video link.
- Disbursements regularly include taxi fares. Providers are reminded that for travel claims where public transport is not used there should be justification on file of the time and/or cost saving of using a car/ taxi for the journey. Without sufficient justification these claims cannot be allowed.
- Providers are reminded of the importance of ensuring that the correct codes are reported for Designated or Undesignated Area's as this can lead to travel costs being paid erroneously. See Standard Crime Contract Specification, Part B section 10.80 -10.87 for further details.

- Providers are advised to ensure the correct rates are reported for travel relating to Duty Solicitor claims and that only on non Business Days can enhanced rates be claimed, please see page 18 of the 2010 Standard Crime Contract Payment Annex for details.

Court Duty:

- It has been noted that when claiming for Advice and Assistance and/or Advocacy Assistance that is provided by the Court Duty solicitor, firms have been 'bulk' claiming duty sessions as one claim (for example, claiming all the duty periods for one month together) instead of claiming for the court Duty period separately. Please see the Standard Crime Contract, Part B, 10.17.

Prison Law

Matter Starts:

- On audit, it has been noted that providers have been starting and subsequently claiming multiple matters when the Contract specifies that only one matter may be commenced. Please see the Standard Crime Contract, Part B, 12.33-12.36 regarding the provisions on starting a new matter and guidance in the Criminal Bills Assessment manual, Version 1 April 2013, 12.7.

Sufficient Benefit:

- Providers are reminded that the Sufficient Benefit Test must be satisfied before you commence, or continue; to work on a prison law matter and that there should be realistic prospect of a positive outcome that would be of real benefit to the Client. Providers are required to ensure it is recorded on file how the Sufficient Benefit Test has been met, and how it continues to be met. Failure to record this information or properly demonstrate the test is being met will result in nil assessment.

Extensions to Upper Limits:

- When applying to extend the Upper limit, providers need to use the Unique File Number for that matter and supply the correct Account Number for the office for which the matter will be claimed. It has been noted that as a result of erroneous/inconsistent UFNs and reporting, applications for extensions to the Upper Limit cannot be reconciled satisfactorily with the records maintained by the LAA and this may result in a claim being queried unnecessarily, resulting in inconvenience to the provider and the potential for claims to be reduced on assessment. Regarding the correct designation of a UFN, please see the Standard Crime Contract, Part A, 4.49-4.40 and for Upper Limits on Claims, please see Part B, 5.9-5.20'.

Meeting the Supervisor Standards:

- Providers are reminded that in accordance with Standard Crime Contract, Part B, Rules 2.18 – 2.21 supervisors are required to have undertaken 350 hours of supervision in the Prison Law category of work during the previous 12 months, OR, undertaken a minimum of 8 cases from a list of specific types of work listed in 2.21, again, during the previous 12 months. It has been noted that in some instances these requirements are not being met.

Prison Visits:

- The Contract requires that matters are dealt with primarily by correspondence, telephone calls or, if possible, by video link before considering a prison visit. Where a provider takes instructions in person this must be sufficiently justified on file.

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