



Legal Aid
Agency

Certificate Outcomes Checklist

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1.1	22/07/15	22/07/15	Civil Case Management

Version History

Version	Date	Reason
1.1	22/07/15	Updated following wording codes Box 1 (G) Revised from “permission not granted” to “permission refused” Box 1 (I1) Revised from “permission granted, no final hearing too place” to “permission granted, determined at final hearing” Revised the applicable codes in the fifth paragraph of bullet 3 to H, I1, I2 and J – they were previously H, I1 and J Updated format so box numbers are new headers.
1	03/04/14	Initial version

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Certificate Outcomes - Checklist

The Certificate Outcomes section of the form contains five boxes. Enter one letter in each box from the lists given below. Please make sure that the outcome of each case is reported accurately.

Box 1: At what stage did the case end?

For final bills in cases other than Judicial Review choose one of the following:

A	No proceedings issued.
B	Proceedings issued, no final hearing.
C	Determined at final hearing.
D	Determined on appeal.

For interim bills choose one of the following:

K	Interim bill fixed fee cases only – change of solicitor
L	Interim bill fixed fee cases only – change of solicitor
M	Interim bill VHCC – Stage concluded

For Judicial Review cases choose one of the following six endpoints:

E1	No proceedings issued
E2	Proceedings issued, case concluded before decision on whether or not to grant permission is made
F1	Permission refused, concluded at first application stage (usually papers).
F2	Permission refused, concluded at a rolled up hearing
G	Permission refused, concluded after renewed application.
H	Permission granted, no final hearing took place
I1	Permission granted, determined at final hearing
I2	Permission granted, determined at rolled up hearing
J	Permission granted, determined on appeal.

- 1) The nine judicial review outcomes should be used only for judicial review cases under CPR Part 54 or Part 4 of the Tribunal procedure (Upper Tribunal) Rules 2008. For all other types of case choose from endpoints A to D.
- 2) Steps under a Pre-action Protocol and applications for pre-action disclosure come within A "No proceedings issued". When choosing between B and C, a final hearing means a trial or other hearing when the case is listed for final determination by the court, including any part of a split trial. Interim applications for summary judgment or striking out do not count as final hearings.

Stage C "Determined at final hearing" applies when the case is concluded on the day of or during the final hearing. This includes not just contested trials but also cases settled at the door of the court or during trial.

Stage D "Determined on appeal" applies when an effective appeal is pursued against the final first instance decision. This does not include cases where no significant steps are taken to pursue the appeal other than obtaining a legal opinion on the merits of the appeal or applying to the first instance court for permission to appeal.

- 3) In judicial review cases the first five outcomes apply in all cases where permission was never granted by the court.

Stage E1 should be used where no substantive proceedings have been issued. This includes cases where an application is made for interim relief but no application for judicial review is ever submitted.

Stage E2 applies where substantive proceedings have been issued but a case is withdrawn or settled before the court makes an initial decision whether or not to grant permission.

Stage G applies where the court initially refuses permission (in most cases this will be a refusal on the papers) and there is a second attempt to persuade the court to grant permission either on oral application or further review to the Court of Appeal.

- 4) Stages H, I1, I2 and J should be used for all judicial reviews where the court at some stage grants the client permission. Apply the approach described in paragraph 2 above when deciding whether a case is determined at final hearing or on appeal.
- 5) Occasionally, the court will order that the application for permission and the substantive hearing be considered together at a rolled up hearing. Codes F2 or I2 should be used in these circumstances. Where there is a further appeal from a rolled up hearing the approach set out in paragraph 2 should be used when deciding whether code M would be more appropriate

Box 2: How did case end?

A	Case withdrawn on solicitor or counsel's recommendation
B	Client withdrew or ceased to give instructions.
C	Case otherwise withdrawn/not proceeded with on merits.
D	Settled.
E	Determined by court/contested hearing.
F	Legal aid withdrawn, not merits related
G	Interim bill fixed fee cases only – change of solicitor
H	Interim bill fixed fee cases only – aspect concluded
I	Interim bill VHCC – stage concluded

- 1) This section records what it was that effectively brought the case to an end. This will generally be either a settlement, a determination of the court or the withdrawal of the case/withdrawal of legal aid.

Stage A applies where the effective reason for the withdrawal is an unfavourable opinion from you or counsel.

Stage B applies where the effective reason why the case ended was the failure of the client to give instructions or the client's decision not to proceed.

Stage C applies in all other cases where the legal aid has been withdrawn on the merits of the case. These outcomes apply whether or not there is a subsequent order or consent order confirming the case is not proceeding.

- 2) Similarly, if a case is settled and that settlement is then reflected in the consent order, the case should be recorded as outcome D "Settled".

A case should be recorded as E "Determined by court" if it is either determined at trial or at an interim stage, such as through summary judgment or dismissal.

- 3) Outcome F "Legal aid withdrawn, not merits related", would apply following the death or bankruptcy of a client, or where the client goes out of scope financially, or the withdrawal of legal aid is for non-disclosure.

- 4) Where legal aid is withdrawn with the consent of the client, the outcome recorded must reflect the actual reason for this. For example, if the client consents to discharge because you advise that the case does not have enough merit to proceed, that would be outcome A "Case withdrawn on solicitor or counsel's recommendation", whereas if the client consented because they were proposing to proceed privately under a conditional fee agreement, that would be outcome F "Legal aid withdrawn, not merits related".

- 5) Where work is ongoing on a certificate but you are billing because work in relation to that aspect or stage has concluded outcomes G to I should be used

Box 3: What was the result?

Four specific categories of case are listed below. If your case falls into any of the categories mentioned and your client has achieved one of the outcomes listed against that category, please choose that outcome. In all other cases or circumstances please choose one of the five outcomes under the heading "Client Outcome - General".

Family Cases concerning financial provision Record if client has obtained:	
A	Lump sum / property adjustment and periodical payments.
B	Lump sum / property adjustment only.
C	Periodical payments only.
D	Client is respondent - client's liability to other party reduced, avoided or less than claimed.

Housing Possession against the client	
E	Possession proceedings dismissed or withdrawn.
F	Postponed or suspended possession order made.
G	Possession proceedings adjourned on terms.

Housing Disrepair	
H	Client obtains order or agreement for repairs and compensation.
I	Client obtains order or agreement for repairs only.
J	Client obtains compensation only.

Non Family money claims (including Clinical Negligence, Actions against the Police)	
K	Damages recovered in full.
L	Reduced damages recovered (see guidance).
M	Client is defendant - claimant recovers no damages or reduced damages only.

Client Outcome - General. Unless a specific outcome has been ticked in one of the categories above, one of the following five outcomes must be chosen	
N	Substantive order in favour of the client.
O	Settlement - with significant benefits for the client.
P	Explanation or apology secured.
Q	Outcome not known / client proceeding by other means.
R	None of the above apply (i.e. concluded with no favourable order or settlement).

- 1) This is the most important indicator showing what was actually achieved for the client. A range of possible outcomes are set out for four specific case categories. These outcomes should be used only for cases which are both within the relevant category (as defined in the Contract) and achieve one of the outcomes listed. For example, if a housing possession case results in an order for possession against the client, which is neither suspended nor adjourned on terms, which should be recorded under the general outcome R "None of the above apply". Similarly the outcomes for family financial cases allow for various forms of financial benefit for the client. If the client receives no such benefit in a financial provision case, general outcome R should again be recorded.
- 2) In cases which do not fall within the four categories for which specific outcomes are listed one of the five outcomes listed under the heading "Client Outcome - General" must always be used. This will apply to all family cases not concerning financial provision and to most non-family cases where the main remedy sought is not the recovery of damages.
- 3) If it appears that more than one listed outcome applies, for example if money and children issues are resolved and reported at the same time in a family case, please record whichever outcome was most significant for the client.
- 4) Outcome D applies in family cases where the client is respondent and secures a beneficial financial outcome. In cases where the client has an existing liability the benefit may take the form of a reduction in that liability or avoiding an increased liability. It can also apply where the client has a new or increased liability but of an amount substantially less than was realistically claimed by the other party. However, outcome D should only be recorded where there was a real risk that the client might have had a substantially worse outcome than that in fact achieved.
- 5) Specific outcomes are available for clinical negligence and other non-family damages claims. Outcome L "Reduced damages recovered" applies where:
 - i. damages are recovered but the client fails to beat a payment into court or similar offer resulting in an adverse cost order against the client.
 - ii. the client is unsuccessful on major aspects of liability or quantum so that only limited damages are recovered, such that the case would not have been regarded as cost effective at the outset if only those damages had been claimed.
 - iii. for any other reason costs are not recovered in full so that the client actually receives less than half of the damages awarded through the operation of the statutory charge or any set-off.
- 6) A similar approach applies in cases where the client is a defendant facing a damages claim but manages to resist the claim either entirely or to the extent that the claimant recovers only reduced damages - outcome M.
- 7) Outcome K "Damages recovered in full" applies where the client has recovered damages and none of the above criteria for "reduced damages" apply. Damages may be treated as recovered if, at the time the case outcome is reported, the damages have either been received by the client or are expected to be paid out to the client when costs or other aspects of the case are finalised.
- 8) Of the five general outcomes, Q "Outcome not known/client proceeding by other means" applies where it is not known whether or not the client will be successful in the proceedings.

Examples include where the client continues with litigation under a CFA or as a litigant in person, typically where the client has fallen out of scope financially.

9) In all other cases, the outcome of the case will be known and it is necessary to decide whether there has been a judgment in favour of a client (outcome N) or a beneficial settlement (outcome O). A settlement should only be regarded as having significant benefits for the client if a reasonable private client would regard the benefits as sufficiently worthwhile to justify having taken or defended the proceedings. Where the client is a defendant, a settlement leaving the client liable to pay some sum to the claimant may nevertheless be a beneficial settlement. However if a client achieves no significant benefit from a settlement other than an agreement by the other side not to seek costs against the client, that must be classified as outcome R.

10) Some settlements may involve the client receiving an apology from the defendant or a proper explanation of the matters giving rise to the claim. This can for example be important in clinical negligence cases and actions against the police. If the only benefit obtained for the client is an explanation or apology, outcome P must be chosen. If an explanation or apology is secured in addition to more tangible benefits choose an outcome to reflect those benefits e.g. K or L where damages are recovered or O where other benefits are secured.

Box 4: Was ADR proposed or used? If ADR did not take place

A	ADR was not considered appropriate to the case and neither side proposed any form of ADR.
B	We proposed but opponent declined.
C	Opponent proposed but we declined.
D	Both sides agreed to ADR but case concluded without its use.

If mediation took place:	
E	Case resolved through mediation.
F	Mediation led to a significant narrowing of the issues or earlier settlement.
G	Case continued and was not significantly assisted by mediation.

If another ADR took place:	
H	Case resolved through ADR.
I	ADR led to a significant narrowing of the issues or earlier settlement.
J	Case continued and was not significantly assisted by ADR.

- 1) This section records the use of ADR. ADR should be taken to include mediation, arbitration, early neutral evaluation or adopting some other administrative procedure as an alternative to litigation, such as a modified complaints procedure.

Direct negotiation between clients or their legal advisers does not count as ADR for this purpose. Record mediation as having taken place if it was the main form of ADR deployed, either alone or in combination with other processes such as neutral evaluation.

- 2) In cases where either mediation or some other ADR process was used three options are provided.

A case should be treated as resolved through ADR if in substance the case was settled in that way even if further legal work was then needed to finalise the settlement.

Outcomes F and I apply where the case was not resolved directly through ADR but where the use of ADR either led to a saving of costs by significantly narrowing the issues between the parties or otherwise contributed to an earlier settlement than would probably have been the case without ADR.

Where ADR took place but these benefits were not achieved outcomes G or J should be recorded.

Box 5: Were significant wider public benefits achieved?

P	The case achieved significant benefits for individuals other than the client (see guidance).
N	No such wider public benefits achieved.

The definition of significant wider public interest in the Merits Criteria applies for this purpose. Outcome P should therefore only be recorded for those exceptional cases which actually achieved significant benefits for individuals other than the client, other than benefits to the public at large which normally flow from proceedings of the type in question. In other words benefits to the public must have flowed from the outcome of the individual case, not merely from the fact that the case was of a type that it is thought in the general public interest to bring e.g. actions against the police or judicial reviews.