

**2018 Standard Civil Contract**

**Specification**

**Category Specific Rules:**

**Welfare Benefits**

## Category Specific Rules

### Section 12 Welfare Benefits Specification

This part of the Specification sets out the rules relating to cases undertaken in the Welfare Benefits Category of Law. Welfare Benefits Contract Providers must satisfy themselves before undertaking work in the Welfare Benefits Category that the work is within scope.

#### Supervisors' Legal Competence Standard

- 12.1 At any time during the Contract Period the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in any 4 (out of 13) Welfare Benefits case categories in Table One below:

<b>Table One</b>		
	<b>Welfare Benefits case category</b>	<b>Minimum number of case files required</b>
1	Employment and Support Allowance	1 case file
2	Disability Living Allowance	1 case file
3	Attendance Allowance	1 case file
4	Tax Credits (including pension credit)	1 case file
5	Pensions (including retirement)	1 case file
6	Bereavement Benefits	1 case file
7	Social Fund Payments	1 case file
8	Housing Benefit	1 case file
9	Job Seekers Allowance	1 case file
10	Industrial Injuries Disablement Allowance	1 case file
11	Income Support	1 case file
12	Universal Credit	1 case file
13	Personal Independence Payments	1 case file

- 12.2 At any time during the Contract Period the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in each of the 4 case types in Table Two below:

<b>Table Two</b>		
	<b>Welfare Benefits case type</b>	<b>Minimum number of case files required</b>

1	Advice and assistance when preparing a permission application to the Upper Tribunal (Administrative Chamber).	3 examples
2	Advice and assistance when preparing a substantive appeal to the Upper Tribunal (Administrative Chamber).	2 examples
3	Recognising the possibility of judicial review proceedings.	2 examples
4	The ability to recognise a possible contravention of the rights and freedoms expressed in the European Convention on Human Rights 1950, as given effect in the Human Rights Act 1998. <i>NB. This example does not need to be demonstrated if your Welfare Benefits Supervisor is the same individual as your Housing and Debt Supervisor.</i>	1 example

- 12.3 The Supervisor must maintain a portfolio (including case name and reference) of cases to demonstrate compliance with Paragraphs 12.1 and 12.2. The same case file can be used to demonstrate compliance with Paragraphs 12.1 and 12.2.
- 12.4 Prior to the appointment as Supervisor the individual must have demonstrated to our satisfaction a portfolio of cases which meet the requirements in Paragraphs 12.1 and 12.2.
- 12.5 The Supervisor must take account of any changes in legislation and case law and maintain access for the duration of the Contract to the following required texts:
- (a) Current edition of CPAG's Welfare Benefits & Tax Credits Handbook;
  - (b) Current edition of Disability Rights UK Disability Rights Handbook;
  - (c) Volumes I, II, III, IV and V Social Security Legislation;
  - (d) Current edition of Housing Benefit and Council Tax Legislation (Findlay/George/Poynter/Stag/Wright);
  - (e) Welfare Reform Act 2013;
  - (f) Current Civil Procedure Rules, Practice Directions and Supplements;  
and

- (g) Tribunal Procedure (Upper Tribunal) Rules 2008 (S.I. 2008 No. 2698 L.15)

### **Category Definitions**

- 12.6 You acknowledge and agree that the Category Definitions 2018 (as amended from time to time), shall be incorporated into this Contract and shall be deemed to be amended as necessary to give effect to the intended meaning of this Contract.

### **Delivering the Service**

- 12.7 Subject to Paragraphs 12.10 to 12.12 below, you must in relation to each case provide Clients with a choice of service delivery method from either:

- (a) provision of advice in person; or
- (b) Remote Advice (as defined at Paragraph 12.8 below)

and you must place a written record on the file of the service delivery method selected by the Client.

### **Remote Advice**

- 12.8 For the purposes of this part of the Specification relating to the Welfare Benefits Category only, "Remote Advice" is advice delivered other than in person and shall include advice delivered:

- (a) via email;
- (b) telephone;
- (c) Web-cam;
- (d) post; or
- (e) such other method of delivery as may be agreed between the parties from time to time.

- 12.9 Remote Advice will include the supply and performance of all activities and services that form part of an end to end legal advice service, including the services set out in this Specification.

- 12.10 Subject to Paragraphs 12.11, 12.12 and 12.15 you may provide Remote Advice to Clients under this Contract where the Client requests it and it is in the Client's best interests.

- 12.11 You may only provide Remote Advice if you have an appropriate procedure in place to assess whether, taking into account all Service Adaptations and

Reasonable Adjustments that are reasonably available to be implemented in respect of the relevant Client, the provision of Remote Advice can reasonably be expected to enable:

- (a) you to understand and act on the Client's instructions; and
- (b) the Client to understand and act on your advice.

12.12 If, following assessment you consider that the provision of Remote Advice referred to in Paragraph 12.10 cannot reasonably be expected to satisfy the requirements set out in Paragraphs 12.11(a) and 12.11(b), then you must provide the Client with Face-to-Face Advice under the Contract or refer or signpost the Client or potential Client in accordance with Paragraphs 2.44 to 2.48 of the Specification.

#### *Means Assessment*

12.13 Where a Client asks to receive Remote Advice and there has been no face to face contact with the Client you must assess the Client's eligibility to receive services under this Contract including means eligibility in accordance with Section 3 of the General Specification. Subject to the exceptions in Section 3 of the General Specification you must obtain the Client's signature on a Legal Help Form and obtain proof of financial eligibility before you Claim a Standard Fee.

12.14 The fact that the Client was receiving Remote Advice shall not meet the criterion in Paragraph 3.24(c) regarding assessment of means.

#### *Remote Advice via telephone*

12.15 You must ensure that any Caseworker who delivers Remote Advice receives training on the following matters before delivering Remote Advice via telephone:

- (a) Remote Advice skills (e.g. building rapport and empathy with Clients when communicating remotely, listening and responding, beginning and ending communication and structuring an interview.
- (b) how to deal with difficult calls, including distressed callers, silent calls and abusive callers; and
- (c) understanding the needs of your Clients, particularly those with a Relevant Characteristic, when using your Remote Advice service and how you seek to support them via the available Service Adaptations and Reasonable Adjustments that your service provides.

12.16 Where a third party is calling on behalf of a Client you must assess and satisfy yourself that the third party is authorised to act for the Client and record the steps taken and evidence provided in this regard.

12.17 Where any potential conflict or concerns are identified in relation to any third party you must act in accordance with the Legal Aid Legislation and relevant

guidance (including the Lord Chancellor's Guidance), and if necessary either refuse an application or, where the application has been accepted, decline to carry out or continue to carry out work. For the avoidance of doubt, the provisions of Paragraphs 12.16 and 12.17 apply at all stages during your involvement in the Matter or Case. You must agree a process with the Client for returning Client calls and agree (and maintain a record of) whether the Client authorises you to:

- (a) reveal who you are to anyone who might answer your call; and
- (b) leave a message on the Client's answer phone.

12.18 You must offer to make outgoing calls:

- (a) if requested by a Client, or by a Client who has previously requested that you make outgoing calls to them;
- (b) where a Client expresses concern about the cost of making a call; or
- (c) where a Client is calling from a mobile phone.

12.19 Telephone numbers provided to Clients to access Remote Advice via telephone must not be Premium Rate Numbers.

### **Client Location**

12.20 In respect of Remote Advice, you may accept instructions regardless of whether or not the Client resides in the Procurement Area(s) in which you hold a Schedule Authorisation.

12.21 You may provide Face-to-Face Advice to any potential Client who resides in a Procurement Area in respect of which you hold a Schedule Authorisation.

12.22 You may only provide to Face-to-Face Advice to a potential Client who resides in a Procurement Area in respect of which you do not hold a Schedule Authorisation where:

- (a) you have provided the Client with details of the Provider(s) authorised to conduct Welfare Benefits advice in the Procurement Area in which they reside; and
- (b) you have written confirmation signed by the Client that they have chosen to instruct you despite being advised of the Provider(s) authorised to deliver Contract Work in the Welfare Benefits Category of Law in the Procurement Area in which they reside.

### **Exceptional Cases**

12.23 Any application for an Exceptional Case in the Welfare Benefits Category can only be made by a Provider with a Schedule Authorisation in the Welfare Benefits Category unless the case satisfies the effective administration of justice test as set out in the Procedure Regulations. Payments for any Exceptional Case Work will be made in accordance with the provisions of this Specification and the

Remuneration Regulations. There are no Delegated Functions to make a determination in respect of an Exceptional Case, save for the means test aspect of a Legal Help case.

### **Supervisor Standards**

- 12.24 In order to receive or maintain a Schedule Authorisation in the Welfare Benefits Category of Law you must have at least one part time equivalent Supervisor in this Category of Law. For the purpose of this Paragraph "part time equivalent" means the equivalent of an individual working 17.5 hours a week during business hours excluding breaks.
- 12.25 Where you have Schedule authorisation to provide services in the Housing and Debt Categories of Law, subject to the other provisions of this Contract, an individual who is a Supervisor on a part time equivalent basis in this Category may also be a Supervisor in the Housing and Debt Categories of Law.

### **Case Involvement Standard**

- 12.26 Supervisors must meet, in the Welfare Benefits Category of Law, a minimum Case Involvement Standard of 56 hours over defined periods. There are minimum and maximum allowances by which Supervisors can meet the 56 hours and they are as follows:
- (a) direct (personal) casework (this may include direct (documented) supervision) – minimum of 37 hours (of which direct (documented) supervision cannot make up more than 19 hours);
  - (b) file review (including face-to-face) – maximum 19 hours (i.e. approximately 50% of 37 hours);
  - (c) external training delivery (meeting any professional development requirements of your Relevant Professional Body) - maximum 19 hours;
  - (d) documented research and the production of publications - maximum 19 hours; and/or
  - (e) other supervision - maximum 19 hours.
- 12.27 If a Supervisor works part time, then to meet the Case Involvement Standard the Supervisor must have undertaken a total of 280 hours over the last five years (measured from the Contract Start Date). This requirement is subject to the same minimum and maximum allowances set out in Paragraph 12.26, adjusted pro-rata.
- 12.28 The Case Involvement Standard will be measured:
- (a) at the Contract Start Date where the 56 hour requirement will be measured over the previous 3 years; and

- (b) on a rolling basis during the Contract period where the Supervisor must be able to meet the 56 hour requirement in the previous 12 months.

**Authorised Litigator**

12.29 At all times you must have access to an Authorised Litigator.