Civil Legal Advice and the Gateway Guidance for Civil Contracted Providers

<table>
<thead>
<tr>
<th>Version</th>
<th>Issue date</th>
<th>Last review date</th>
<th>Owned by</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.7</td>
<td>September 2019</td>
<td>16/09/19</td>
<td>Service Development (LAA)</td>
</tr>
</tbody>
</table>
Introduction

After reading this guidance you should understand:

- The ‘Gateway’ requirements as defined in Part 2 of the Civil Legal Aid (Procedure) Regulations 2012 (the Procedure Regulations)
- How Civil Legal Advice operates
- How people can contact Civil Legal Advice
- When to direct people to Civil Legal Advice for help and how to do this
- What to expect when Civil Legal Advice signposts or refers clients to you

You should read this guidance if:

- You are involved delivering a Standard Civil Contract 2018 in housing and debt, discrimination or education.
- It is also recommended reading for anyone involved in the delivery of a standard civil contract in any other category.
CLAL & the Gateway

Guidance for Civil Contracted Providers

Civil Legal Advice (CLA)

Civil Legal Advice (formerly known as Community Legal Advice), is a national adviceline for England & Wales, paid for by Legal Aid.

How to contact Civil Legal Advice:

<table>
<thead>
<tr>
<th>Method</th>
<th>Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Online</td>
<td>Go to <a href="http://www.gov.uk/civil-legal-advice">www.gov.uk/civil-legal-advice</a></td>
</tr>
<tr>
<td></td>
<td>Or just search for Civil Legal Advice on <a href="http://www.gov.uk">www.gov.uk</a></td>
</tr>
<tr>
<td>Telephone *</td>
<td>0345 345 4345</td>
</tr>
<tr>
<td>Text</td>
<td>'legalaid' and name to 80010</td>
</tr>
<tr>
<td>Minicom</td>
<td>0345 609 6677</td>
</tr>
<tr>
<td>Book a call back for date, time or language that suits</td>
<td>Go to <a href="http://www.gov.uk/check-legal-aid">www.gov.uk/check-legal-aid</a></td>
</tr>
<tr>
<td></td>
<td>You can request the date, time, language or minicom or typetalk</td>
</tr>
<tr>
<td>Opening times</td>
<td>Monday to Friday 9am to 8pm and Saturday 9am to 12:30pm.</td>
</tr>
<tr>
<td></td>
<td>Outside these times leave a message; CLA will call back within one working day.</td>
</tr>
</tbody>
</table>

* Calls from a BT landline cost 4p per minute. Calls from a mobile usually cost more. Anyone worried about the cost of the call can request a call back.

It provides specialist legal advice, primarily by telephone, online and post, to people who are eligible for legal aid with a problem in:

<table>
<thead>
<tr>
<th>Problem</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debt (where their home is at risk)</td>
</tr>
<tr>
<td>Housing</td>
</tr>
<tr>
<td>Education (Special Educational Needs)</td>
</tr>
<tr>
<td>Discrimination</td>
</tr>
<tr>
<td>Family (involving domestic violence, child abuse or public children act proceedings)</td>
</tr>
</tbody>
</table>

What happens when someone first contacts Civil Legal Advice

People will initially speak to an operator, who will assess whether their problem is within scope and if they are financially eligible for legal aid in one of the areas covered by the adviceline.

Where it appears from this initial assessment that a client will qualify for Legal Aid they will be put through to a CLA Specialist advisor immediately.

If the client is ineligible for legal aid or CLA cannot help, the operator will suggest an alternative source of help. This can include giving details of other legal aid contracted providers who may offer a paid-for advice service.
The Gateway

Any person wishing to apply for controlled work in the following categories must apply via CLA, unless they are an exempted person.

<table>
<thead>
<tr>
<th>Debt</th>
<th>Discrimination</th>
<th>Education (SEN and discrimination cases only)</th>
</tr>
</thead>
</table>

Exempted persons are:

- children (under the age of 18);
- people who have been deprived of their liberty (e.g. they are in prison or a secure hospital);
- those assessed by the gateway in the previous 12 months as requiring face-to-face advice, who have a further linked problem and are seeking further help from the same face-to-face provider.

People who are exempt will continue to be able to access advice from an available face to face advice provider, who holds a relevant contract in that category of law.

Part 2 Gateway Work - The Civil Legal Aid (Procedure) Regulations 2012

This section of the regulations defines what work is required to go via the gateway and specifies how applications for gateway work should be made.

You can make an application for Legal Representation under a certificate. However, you must still consider whether advice under Legal Help would be more appropriate and if it is clients must be signposted to CLA at the earliest opportunity (unless they are an exempted person).
Supporting client access

All CLA operators and specialist caseworkers have been trained to identify specific client needs and where possible will aim to accommodate them.

All clients will be given the opportunity to discuss whether any available reasonable adjustments or adaptations could be used to support their access to the service.

In addition to being able to communicate with CLA both online and by telephone the following service adaptations and adjustments are available:

- a free telephone interpretation service, if English is not a caller’s first language;
- text relay and British Sign Language via webcam for deaf and deafened clients
- allowing an authorised friend, family member, support worker or other professional to contact CLA on behalf of the client;
- calling the client back where the cost of the call may be an issue
- access to a freepost service and provision of correspondence in an accessible format for the client e.g. large font, easy read, Braille or audio etc.

The assessment of suitability for remote advice

CLA Specialist advisors will assess all eligible clients to determine whether a remote advice service provided by telephone, online and post is appropriate for the client in their individual circumstances.

This assessment of suitability is the means by which CLA will implement the requirement within Part 2 of the Procedure Regulations that where CLA determines that a client qualifies for “Gateway Work” they must also specify whether the advice will be delivered remotely by a CLA Provider or Face-to-face.

The assessment is based on a consideration of the client’s current circumstances and whether CLA can:

- understand and act on the client’s instructions and
- the client can understand and act on the advice provided by CLA

From 1 September 2019, CLA Specialist advisors in education and discrimination will also need to consider:

- whether the individual has expressed a wish for services to be provided by a face-to-face provider
- the location of the face to face providers nearest to the individual or the client’s wish to be assisted by a specific face-to-face provider

When making the assessment the CLA Specialist advisor must take into account the service adaptations and reasonable adjustments available to them to support the client.

**Particular emphasis should be placed on any wish expressed by the individual for services to be provided by a face-to-face provider.**

Clients who require Legal Representation under a certificate will always be offered a face to face advice service if this is what they would prefer.
In Family or Housing clients can always choose to be signposted or referred to a face to face advice service if they would prefer.

Remember: Only CLA can make the assessment of suitability for remote advice
Signposting to Civil Legal Advice

When you must signpost to the CLA Gateway

You must signpost people who are, or are likely to be, eligible for legal aid to Civil Legal Advice, if they have a problem in a gateway category of law (debt, discrimination or education) unless they are:

- An Exempted Person as outlined above or
- They require Legal Representation under a certificate and
- You have a contract in the relevant category

Contractual Requirements to signpost to CLA

Please note that this is a contractual requirement as specified at paragraph 2.46 of the 2018 Standard Civil Contract Specification.

Any delay, for example by advising the client to return when an application for Legal Representation would be justified, would be contrary to s.2.46 of the 2018 Standard Civil Contract Specification and s.7.2 of the 2018 Standard Civil Contract Standard Terms, which relate to acting in the best interests of potential clients and contract sanctions could be applied.

Note that face to face advice providers with a contract in a category in which a discrimination problem relates (e.g. community care or housing) can act on behalf of the client without a referral to the gateway. Providers with a face-to-face Discrimination contract can also undertake work that arises in a case that has a crossover with another face-to-face category of law (e.g. community care or housing) without a referral to the gateway.

When you can signpost to CLA

You can signpost people who are or are likely to be eligible for legal aid to Civil Legal Advice if they have a problem in Housing or Family. Or you may choose to signpost or refer them to an appropriate face to face legal aid contracted provider.

When you should signpost to legal aid resources on www.gov.uk

If you are unsure whether someone is eligible for legal aid you should always consider directing them to the ‘Can You Get Legal Aid’ tool at www.gov.uk/check-legal-aid.

You should only direct such people to the Civil Legal Advice adviceline if you believe that they are likely to be eligible for legal aid or they do not have Internet access or they would have difficulty using the tool.

The online tool provides a simple high-level check of whether the user may qualify for legal aid. Whatever the outcome, the user will be directed to the most appropriate source of help.
Supporting clients to access Civil Legal Advice

You can assist clients to contact CLA, particularly those that may be worried about using an adviceline by:

- Explaining about the different ways to contact CLA
- Providing people with a way to access CLA from your offices
- Booking a call back for the client online or by text
- Or in exceptional circumstances, and only if the client consents, contacting CLA on their behalf
When Civil Legal Advice may signpost or refer clients to you

Where considered necessary CLA will refer clients for a face to face advice service. This is most likely to occur when:

- It has been determined a client should receive face-to-face advice or
- A client requires a representation service

In Education, Debt and Discrimination, where an assessment of suitability is required to determine whether a client should receive remote advice or face-to-face advice this will be carried out by a CLA Specialist rather than the operator. The operator will refer eligible clients through to a CLA Specialist to carry out this assessment.

More usually CLA Specialists will not have opened a new matter start but occasionally a referral may occur once initial advice has been provided.

Which organisations and how the client will be signposted or referred will be dependent on the category of law in which they require help.

Please note that referrals are when CLA will actually make contact with the other organisation to organise for the client to be assisted. Signposting is where the client is provided with details of who may be able to assist but the client will have to make contact themselves.

<table>
<thead>
<tr>
<th>Debt</th>
<th>Clients will be referred unless the client wishes to make direct contact themselves. CLA or client will provide the CLA Reference Number.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Education</td>
<td>Clients will be referred unless the client wishes to make direct contact themselves. In some circumstances, CLA will refer the client to their own face to face advice service.</td>
</tr>
<tr>
<td>Discrimination</td>
<td>Clients will be referred unless the client wishes to make direct contact themselves. In some circumstances, CLA will refer the client to their own face to face advice service. Where more appropriate a face to face advice provider with a contract in a category in which the discrimination relates (e.g. community care or housing) can act on behalf of the client</td>
</tr>
<tr>
<td>Housing or Family</td>
<td>Clients will be signposted unless the client requires a referral as a reasonable adjustment under the Equalities Act or CLA have undertaken casework</td>
</tr>
</tbody>
</table>

When making a referral CLA will:

- Contact the chosen face to face provider either by telephone or electronically e.g. by secure email.
- Share any relevant information about the client, their problem and advice needs including details of any reasonable adjustments required by the Client.

**How CLA choose which face to face advice provider**

CLA will use ‘Find a Legal Advisor or Family Mediator’ [https://find-legal-advice.justice.gov.uk/](https://find-legal-advice.justice.gov.uk/)

They will select relevant contract category holders only and will initially need to determine that the organisation is authorised to provide legal aid services in the relevant category.

Where there is more than one suitable provider any selection between them must be based first on the Client’s choice and failing that, on proximity in accordance with the client’s wishes (ie this can be closest to a home address, work address or place of the client’s choosing). CLA provider preference cannot be taken into consideration.

**Keeping your entry on the Find an Advisor Directory up to date**

The information about your organisation on the directory is provided by the Legal Aid Agency information about contracted providers. If any of the information appears to be out of date you should follow the usual procedure to update.

**Accepting referrals**

You can accept a CLA referral and open a new matter in the usual way providing that you have sufficient matter starts and have determined that the client is financially eligible and meets the scope and merits criteria.

You must have regard to s. 3.40 to 3.45 of the 2018 Civil Contract General Specification in relation to previous controlled work carried out by a different provider. Where a client has been assessed as requiring face to face advice by CLA this would be sufficient justification for opening a subsequent new matter start.

You cannot rely on the scope or financial assessment made by CLA and must make the relevant determinations yourself.

CLA or the client should provide you with:

- Advice and assistance already provided including any documentation
- Information on any reasonable adjustments that the client will need (you have a duty under the Equality Act 2010 to make reasonable adjustments for disabled clients)
- For debt, education and discrimination clients, a CLA reference number

**Cost of non-standard reasonable adjustments**

You can claim the costs for non-standard communication services provided as a reasonable adjustment as a disbursement

You cannot decline a matter for any reason connected to any needs protected under the Equality Act 2010 e.g. connected to a client’s reasonable adjustment needs
If you cannot assist the client

You must notify CLA immediately, so that CLA can make another referral or
Where the client has contacted you directly, help the client to find another appropriate provider
Opening new matters under your debt, discrimination or education face to face advice contract

You can open a matter under your face to face advice contract in debt, discrimination or education where:

- The client is an Exempted Person or
- The client has been assessed by CLA as requiring face to face advice and you have a CLA reference number or
- You are making an application for Legal Representation under a certificate or
- The work is not defined as “Gateway Work” (see regulation 20 of the Procedure Regulations)

When opening a matter start for Gateway Work you must complete the Gateway Section on the Legal Help CW1 form by:

- Inserting a CLA reference number or
- Indicating the relevant exemption for your client

Maintaining evidence on the file

Where you have advised a client directly you must maintain adequate records on the case file to demonstrate that you were authorised to advise the client.

Where you accept a referral from a client that has been previously assessed by CLA as requiring a face to face advice service you will need to obtain the CLA Reference Number. This must be included on the signed Legal Help form (CW1)

For exempted clients you must indicate the relevant exemption on the CW1 form and maintain appropriate records on the case file to demonstrate that the Client is an Exempted Person is as follows:

<table>
<thead>
<tr>
<th>Evidence of exemptions to be maintained on case file</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Child (under 18)</td>
<td>Date of birth on the CW1 and date CW1 signed must show the client was under 18 and other client records on the case file must correspond</td>
</tr>
<tr>
<td>Deprived of their liberty</td>
<td>Address on the CW1 as well as general correspondence should indicate where the client is being detained. Or you must record in the case notes why the client has been deprived of their liberty</td>
</tr>
<tr>
<td>Previously assessed person with a linked problem</td>
<td>Original CLA Reference Number must be included on the new CW1 form. The case file must show that the new CW1 was signed within 12 months of the original CLA ‘assessment of suitability’ and how the</td>
</tr>
</tbody>
</table>
**Billing cases – Debt only**

When claiming the debt matter on CWA the CLA reference number or relevant exemption code must be included.

- They are a child - ECHI
- They have been deprived of their liberty - EDET
- They were previously referred through gateway and now require advice on a linked matter – EPRE. You will also need to include the original CLA Reference Number

For further information about what codes to use when billing a matter please refer to Guidance for Reporting Controlled Work Matters at [www.gov.uk](http://www.gov.uk).

*For the avoidance of doubt, this requirement does not apply to either Discrimination or Education claims.*

**Lost your CLA Reference number**

If you have lost the original CLA reference number for a returning client or if you want to check a number you can call Civil Legal Advice directly to check on 0845 124 7447