

Requests for Supplementary Matter Starts: Guidance to Contract Managers

Date: 22 January 2015

This guidance applies to requests for Supplementary Matter Starts made under the:

- 2010 Standard Civil Contract;
- 2013 Standard Civil Contract;
- 2014 Standard Civil Contract;
- 2014 Standard Civil Contract (Welfare Benefits); and will apply to the
- 2015 Standard Civil Contract when in force.

This guidance replaces all guidance previously issued with immediate effect.

This guidance applies to all categories of law with the exception of the Family Mediation category of law. There is no limit to the number of Supplementary Matter Starts that may be authorised in this category.

Contractual Background

Providers may request “Supplementary Matter Starts” i.e. increases in the number of Matters Starts allocated in the contract year. The Contract Specification (extract replicated below) provides the mechanism for Contract Managers to respond to such requests.

Requests for Supplementary Matter Starts should be considered by reference to these contract provisions.

Specifically paragraphs 1.20 to 1.23¹ of the Contract Specifications state:

Supplementary Matter Starts

- 1.20 *Schedules also act as a framework under which we may issue you with Supplemental Matter Starts during the period they cover. We may issue Supplementary matter Starts either in accordance with an invitation to tender, or under paragraph 1.22...*
- 1.21 *Before issuing Supplementary Matter Starts, we will consider, subject to the provisions of this Contract, all the circumstances including whether we are satisfied that there is evidence of unmet need for the applicable Category of Law within your Procurement Area.*

¹ Paragraphs 1.30 to 1.33 in the 2010 Standard Civil Contract Specification.

1.22 *Without prejudice to Paragraph 1.21 but subject to the limit set out at Paragraph 1.12, we may issue Supplementary Matter Starts to you if we are satisfied that either:*

- (a) you are unable to meet an urgent demand from Clients for your services from your current Matter Start allocation; or*
- (b) an urgent need for services arises as a result of another Provider in your Procurement Area ceasing to provide or reducing the provision of such services for any reason; or*
- (c) there is a general increase in demand for services of that type within your Procurement Area.*

1.23 *We will not issue Supplementary Matter Starts to you under Paragraph 1.22 in a Procurement Area for a Category if doing so would bring the total number of Supplementary Matter Starts issued to you in that Procurement Area for that Category to a figure which is higher than 50% of your allocation of Matter Starts in that Procurement Area for that Category at the start of your current Schedule Period.*

Supplementary Matter Starts (up to 50% of original allocation)

When considering a request for Supplementary Matter Starts, Contract Managers should consider whether the firm has demonstrated that an increase is justified and can be made within the contract terms.

The conditions in paragraph 1.22 would, for example, be satisfied where a Provider can demonstrate that the original allocation of Matter Starts in the current Schedule Period will be insufficient to meet client demand i.e. projections indicate that it will exhaust its current Matter Start allocation.

In these circumstances the Contract Manager may, with the Area Contract Manager's agreement, authorise an increase in Matter Starts up to a maximum 50% of the original allocation in the current Schedule Period.

There may be circumstances where it is not considered appropriate to authorise Supplementary Matter Starts, for example where there are concerns regarding the Provider's contractual performance or where audit activity indicates Matter Starts are being used for cases that are outside the scope of legal aid.

This is no restriction on the number of times Supplementary Matter Starts may be authorised, but the total number of additional Matter Starts authorised may not exceed 50% of the initial allocation in the Schedule Period.

For example, where a Provider receives an allocation of 100 Matter Starts at the start of the current Schedule Period the maximum number of Supplementary Matter Starts that may be authorised during that year is 50.

The contract does not require that the Contract Manager must consider whether other Providers have unused Matter Starts in the Procurement Area and this will not be a reason to refuse requests for Supplementary Matter Starts.

Where a Schedule authorises a provider to self-grant Supplementary Matter Starts this replaces the Provider's ability to request additional Matter Starts.

New Schedules

Where Supplementary Matter Starts are issued this will increase the minimum number of Matter Starts that may be awarded in the following Schedule Period e.g.:

Year 1 allocation:	100 Matter Starts – Max increase = 50 Matter Starts
Year 2 allocation	150 Matter Starts – Max increase = 75 Matter Starts
Year 3 allocation	225 Matter Starts – Max increase = 113 Matter Starts

n.b. actual allocations may be less where the Provider is not projected to use all the current year allocation of Matter Starts or is subject to the minimum 80% allocation provisions contained in the Contract Specification.

Supplementary Matter Starts (above 50% of original allocation)

The contract provisions do not allow for increases in Matter Starts over 50% of the original allocation.

However, in exceptional circumstances it may be necessary to authorise an increase above this to address "emergency" situations.

This would not include a Provider simply reaching the limit of the supplementary Matter Starts allocated to it.

Where a Contract Manager considers that such a situation might exist the request must be forwarded to the Area Contract Manager with lead responsibility for contract matters who will consider the request with Central Commissioning and Legal Team colleagues as appropriate.

