

**2024 Standard Civil Contract**

**Specification**

**Category Specific Rules:**

**Community Care**

DRAFT

## Section 11 Community Care Specification

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

### *Supervisors' legal competence standard*

11.1 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in the Community Care case categories in Table One below:

| <b>Table One</b> |   |  |
|------------------|---|--|
|                  | <b>Community Care Case Category</b>   | <b>Minimum number of case files required</b>   |
| 1                | <p>Assessment and Care Plans providing advice and assistance in relation to issues regarding assessments and care plans, including:</p> <ul style="list-style-type: none"> <li>• Failure to assess or review assessments</li> <li>• Disputed assessments</li> <li>• Disputed care plans</li> </ul> <p>NB. This advice could arise from advising on adequacy of assessments or care plans within Court of Protection cases.</p>  | <p>3 case files</p> <p>(Note: Where the supervisor cannot demonstrate three separate examples over the 12 month period but can evidence one substantial case (i.e. High Court or a case of 100 hours or more), this may demonstrate the required level of experience in this type of Community Care case).</p> |
| 2                | <ul style="list-style-type: none"> <li>• Charging for services</li> <li>• NHS and other Health Service Provision</li> <li>• Services for asylum seekers</li> <li>• Services for children</li> <li>• Unsuitable/ inappropriate housing</li> <li>• Hospital discharge</li> <li>• Capacity and best interests issues</li> <li>• Deprivation of Liberty</li> <li>• Closure/reorganisation</li> <li>• Service Provision and eligibility criteria</li> <li>• Carers rights and needs</li> </ul> | <p>3 case files</p>  |

|  |  |  |
|--|--|--|
|  | <ul style="list-style-type: none"> <li>• Direct payments and personal budgets</li> <li>• Disabled Facilities Grants</li> </ul> |  |
|--|--|--|

11.2 At any time during the Contract the Supervisor must, in the previous 12 months, have undertaken work on the minimum number of cases in each of the 2 case types in Table Two below:

| <b>Table Two</b> |  |  |
|------------------|--|--|
|                  | <b>Community Care case type</b>  | <b>Minimum number of case files required</b> |
| 1                | Case demonstrating the ability to recognise the appropriateness of judicial review and to act upon it (referral may be accepted as appropriate action for non-solicitor Supervisors working in the Not-for-Profit sector). This may be illustrated by the issue of proceedings or by other suitable advice regarding judicial review as a possible remedy without proceedings, for example by compliance with the pre-action protocol or other advice to a client. | 1 case file                                  |
| 2                | <p>Case:</p> <ul style="list-style-type: none"> <li>• where substantive advice is given to the client on the appropriate remedy in their case, one of which is judicial review and/ or Court of Protection proceedings and the other is an alternative remedy (i.e. complaints or other dispute resolution, ombudsman/commissioner, mediation); or</li> <li>• demonstrating the ability to recognise a possible</li> </ul>   | 2 case files                                 |

|  |   |  |
|--|---|--|
|  | <p>contravention of the rights and freedoms expressed in the European Convention on Human Rights 1950, as given effect in the Human Rights Act 1998 (as amended).</p> |  |
|--|---|--|

- 11.3 The Supervisor must maintain a portfolio (including case name and reference) of cases to demonstrate compliance with Paragraphs 11.1 and 11.2. ~~The same case file can be used to demonstrate compliance with Paragraphs 11.1 and 11.2.~~
- 11.4 Prior to the appointment as a Community Care Category Supervisor the individual must have demonstrated to our satisfaction a portfolio of cases which meet the requirements in Paragraphs 11.1 and 11.2.
- 11.5 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) at least 1 nationally published journal containing Community Care law updates;
  - (b) at least 1 current core community law text;
  - (c) Community care law reports and guidance;
  - (d) Civil Procedure Rules and Practice Directions;
  - (e) up to date information concerning Health Service Structure; and
  - (f) Where a Supervisor carries out Court of Protection cases they will be required have access to:
    - (i) The current edition of the Mental Capacity Act Manual (Sweet and Maxwell) or Jordan’s Court of Protection Practice; and
    - (ii) Court of Protection Rules 2017; and
    - (iii) The Court of Protection Practice Directions.

### *Supervisor Standards*

- 11.6 In order to receive or maintain a Schedule Authorisation in the Community Care 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 one individual working 17.5 hours a week (excluding breaks).

11.7 Subject to the provisions of this Contract, an individual who is a Supervisor in this Category may also be a Supervisor in another Category of Law but only to the extent that any such individual does not work more than full time equivalent working hours. For the purposes of this paragraph "full time equivalent working hours" means the equivalent of one individual working 35 hours per week (excluding breaks).

*Requirements on Performing Contract Work for proceedings under the Mental Capacity Act 2005*

11.8 In addition to the requirements at 11.1 to 11.5 above, Supervisors of Contract Work relating to proceedings under the Mental Capacity Act 2005 must:

(a) have:

(i) been directly involved in the delivery of at least 5 new cases (whether delivered under this Contract, a Previous Contract or otherwise), during the 12 months immediately preceding the point that the individual wishes to qualify as a Supervisor, where the primary issues relate to matters under the Mental Capacity Act 2005; and

(ii) provided advice and assistance in relation to the Mental Capacity Act 2005 in the previous 12 months, including a minimum of 2 case files where an application to the Court of Protection was made; or

(b) hold the Law Society Mental Capacity (Welfare) Accreditation.

11.9 For the purposes of paragraph 11.8, an individual will be "directly involved" in the delivery of a case if, for the duration of the case, they have either:

(a) personally conducted a significant amount of the casework on the case; or

(b) directly supervised an individual with conduct of the case.

11.10 Not used.

11.11 We may specify further requirements for performing Contract Work in proceedings under the Mental Capacity Act 2005 in this Category at any point during the Contract Period and will give you at least twelve months' notice of the date any such requirements will take effect. Any such further requirements will be based on any relevant accreditation scheme introduced by the Law Society and will only be implemented following agreement with Consultative Bodies.