

**2014 Standard Civil Contract (Welfare Benefits)**

**Specification**

**Category Specific Rules**

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## Category Specific Rules

### Section 7 Welfare Benefits Specification

This part of the Specification sets out the rules relating to cases undertaken in the Welfare Benefits Category of Law. On 1 April 2013 the provisions of the Act came into force. The result of this is that some matters which were previously within the scope of funding are now no longer within the scope of this Contract. Welfare Benefits Contract Providers will therefore need to satisfy themselves before undertaking work in the Welfare Benefits Category that the work is within scope.

#### Supervisors' Legal Competence Standard

7.1 At any time during the Contract Period the Supervisor must, in the previous 22 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>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

7.2 At any time during the Contract Period the Supervisor must, in the previous 22 months, have undertaken work on the minimum number of cases in each of the 4 case types in Table Two below:

	<b>Welfare Benefits case type</b>	<b>Minimum number of case files</b>
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		<b>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.	1 example

7.3 The Supervisor must maintain a portfolio (including case name and reference) of cases to demonstrate compliance with Paragraphs 7.1 and 7.2. The same case file can be used to demonstrate compliance with Paragraphs 7.1 and 7.2.

7.4 Prior to the appointment as Supervisor the individual must have demonstrated to our satisfaction a portfolio of cases which meet the requirements in Paragraphs 7.1 and 7.2.

7.5 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 Handbook (Disability Allowance);
- (c) Volumes I, II and III 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**

7.6 You acknowledge and agree that the Category Definitions 2013 (as amended from time to time), which apply to the 2013 Standard Civil Contract 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 rather than the 2013 Standard Civil Contract.

### **Remote Advice**

7.7 Remote Advice is advice delivered other than as Face-to-Face advice 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.

7.8 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.

7.9 Subject to Paragraphs 7.10, 7.11 and 7.14 you may provide Remote Advice to clients under this Contract where the Client requests it and it is the Client's best interests.

7.10 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.

7.11 If, following assessment you consider that the Provision of Remote Advice referred to in Paragraph 7.9 cannot reasonably be expected to satisfy the requirements set out in Paragraphs 7.10(a) and 7.10(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*

7.12 Where a Client asks to receive Remote Advice and there has been no face to face contract 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 Specification. Subject to the exceptions in Section 3 of the Specification you must obtain the Clients signature on a Legal Help Form and obtain proof of financial eligibility before you Claim a Standard Fee.

- 7.13 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*

- 7.14 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.

- 7.15 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.

- 7.16 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 7.15 and 7.16 apply at all stages during your involvement in the Matter or Case.

- 7.17 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.

- 7.18 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.

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

### **Client Location**

- 7.20 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.
- 7.21 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.
- 7.22 You may only provide to a 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) 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 conduct Welfare Benefits advice in the Procurement Area in which they reside.

### **Exceptional Cases**

- 7.23 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.

### **Authorised Litigator**

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