

Notes for Legal Representatives

Guidance from the Legal Services Commission:

Solicitors should be familiar with The General Criminal Contract, Contract Specification Part A, 4, Appeals and Review Work and Contract Specification Part B, 6.4, Guidance on Specific Units of Work, Appeals Reviews and Variations as well as the Criminal Bill Assessment Manual. These documents detail what work can be properly claimed for when advising clients who are making applications to the CCRC.

If a client qualifies for Advice and Assistance, initial case screening should normally be done within 20 units (two hours), although this may not be possible if the client is located at a distant prison. This initial screening will cover taking instructions, considering any relevant papers or records, and the provision of initial advice on law and procedure. The LSC advises that you should reject a case after initial screening if it is clear that there is no reasonable prospect of a referral by the CCRC.

Some investigation may be necessary on behalf of the convicted defendant before any application is made, possibly including further forensic testing, the obtaining of witness statements and counsel's opinion. If an application is to be made to the CCRC, then the solicitor will be involved in gathering and rationalising the material, preparing a chronology of events, and preparing the submission of any legal arguments required.

The solicitor is also likely to need to advise and assist the convicted defendant after the application is submitted to the CCRC by assisting the CCRC with specific queries, making further submissions (if appropriate) arising from material disclosed by the CCRC in the course of the review and investigation, liaising with the CCRC as to its approach and progress and advising the client in relation to any decisions made by the CCRC in the case. It may be necessary for the solicitor to meet the CCRC's representatives on more than one occasion in a complex case.

(Specification Part B, Rule 6.4, of the General Criminal Contract.)

You may not provide Advice and Assistance to a Client who has received Advice and Assistance for the same Matter from another Solicitor within the six months preceding the application, except where:

- (a) there is a gap in time and circumstances have changed materially between the first and second occasions when the Advice and Assistance was sought, for example, a Client has been charged or convicted in the intervening period; or
- (b) the Client has reasonable cause to transfer from the first Solicitor e.g. conflict of interest; or
- (c) the first Solicitor has confirmed to you that he or she will be making no Claim for payment for the Advice and Assistance; or
- (d) Advice and Assistance was originally given at a Police Station or by a court Duty Solicitor acting as such.

When providing Advice and Assistance in the circumstances set out in this Rule you should record the justification for doing so on the file. For the avoidance of doubt, this power is a Devolved Power.

(Specification Part A, Rule 2.12, General Criminal Contract.)

You may exercise the Devolved Power to accept an application for Advice and Assistance by post from a Client where there is good reason to do so, but not where the Client is resident outside England and Wales and:

- (a) such residence is purely temporary and the Client can without serious disadvantage delay the application until he or she has returned to England and Wales; or
- (b) the Advice and Assistance could be applied for on the same Matter by a person resident in England and Wales; or
- (c) it is otherwise unreasonable to accept the application.

(Specification Part A, Rule 2.1, General Criminal Contract)

Where a Client cannot for good reason meet you in order to apply for Advice and Assistance, that Client may authorise another person ('the authorised person') to attend on their behalf. The authorised person must provide you with the information and evidence necessary to assess whether the Client meets the financial criteria. The authorised person must attend on you personally to make the application.

Save where the Advice and Assistance is provided to a Client whose physical or mental disability renders it impracticable to attend the office, no member, associate or employee of your firm (or family member of such member, associate or employee) may act as an authorised person for the purposes of this Rule. You may not accept an application for Advice and Assistance from an authorised person on behalf of a Client unless that Client is, at the time when the authorisation is given, either present in or resides in England and Wales.

(Specification Part A, Rule 2.2.,
General Criminal Contract)

You may claim payment for advice given to a Client over the telephone before that Client has signed the application form where:

- (a) the Client cannot for good reason attend your office; and
- (b) the Client meets the Qualifying Criteria for the provision of Advice and Assistance (including the financial criteria) and has subsequently signed the application form.

(Specification Part A, Rule 2.3.,
General Criminal Contract)

You may claim for the mileage or cost of public transport for outward travel (but not travelling time, except as allowed in Guidance) to visit a Client away from your office before the application form is signed where:

- (a) the visit is justified for good reason; and
- (b) the Client meets the Qualifying Criteria for the provision of Advice and Assistance (including financial criteria) and has subsequently signed the application form.

(Specification Part A, Rule 2.4.,
General Criminal Contract)

CCRC

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