

Further guidance on completing the new forms

Completing any of the new forms

- You can now only make civil or criminal advice and assistance applications and civil increase requests on the new forms. We cannot accept any applications and civil increases made on the previous forms and any received will be returned.
- You cannot use pdf forms, photocopies or your own versions of our forms from 1 May 2007. You must use the new printed forms, or use Legal Aid Online.
- When filling out the new forms please use black ink only and when completing the single white boxes, write in capitals. Use the check boxes and write within the white boxes/space only. Do not send covering letters with the application form unless you require to tell us something that cannot be written on the form.

Civil advice and assistance application form

Section C

Debt cases

Where your client's advice and assistance case involves a debt matter (category codes DBT for standard advice and assistance and DBTD for diagnostic advice and assistance) you should include the financial value of debt when providing your answer at Section C question 2 subject matter on the application form.

You should also include the debt figure if you are completing the civil increase form at Section F, question 4 - if money or property is the subject matter of dispute, what is the value.

Filling out the application form correctly

We have been receiving application forms where the solicitor has completed questions that do not require to be answered. To help ensure solicitors are not completing information that they do not require to provide, you should note that on the civil advice and assistance application form, if your client's case is standard advice and assistance, you do NOT require to answer Section C questions 5 and 6 to explain why standard advice and assistance is to be given. These questions should only be answered for diagnostic cases.

Sections F and G

How to complete the application form when your client receives a passport benefit or has disregarded benefit payments

On the new application forms, you now show where your client receives a passport benefit (income support or income-based Jobseeker's

Allowance) or receives other benefits. You provide these details in Section F on page 3.

However, when completing Section G on financial eligibility on income, if your client receives a passport benefit or has no income, please use the cross boxes to show Nil income.

Where your client receives a disregarded benefit or tax credit (refer to the *Keycard* for a listing of these), the amount received should not be included as income at Section G question 1.

Section H

How to complete the equality questions and use the Equality Card

We have had a number of questions about how to complete the equality questions, partly because instructions on how best to do this is different on the application forms and the *Equality Card*.

The equality questions to be completed are at Section H of the application form. We have supplied an *Equality Card* which you should pass to your client. The front page of the card explains to your client why we collect equality information. (Your client should return the *Equality Card* to you after completing the section).

The equality questions on the form can either be completed by:

- asking your client to read the answers on the card and give you a number to complete on the form (as described on the *Equality Card*)

or

- passing the form to your client, and asking them to put the numbers in the boxes (as described on the form). The equality section is just before the applicant's declaration section, so that it is easier if you wish to have your client complete the form themselves.

To assist answer the equality questions correctly please note that:

- there are three questions to be answered. Your client does not have to answer any of these questions. If they do not wish to answer, put a cross at question 1.
- Question 2 about ethnic origin has several answers to write in, with two parts:
 - part A covering nationality - where the answer can be 1 to 7. It is possible that a text answer may have to be written in at Other if the client's gave answer 6 (other) to nationality
 - part B of question 2 can have numbers 10-24 to write in. You may also have to write in an answer at Part C, if the client gave any answer with other ethnic background.
- Question 3, about disability, has only an answer of 1, 2 or 3.

When completing the form, please ensure that you write in the answer to part B of question 2 in that box, and not at the space for question 3. Some applications we have received have given the answer to question 2 part B at question 3, so please check that the correct answer is being completed - remember that question 3 can only be answered using 1, 2 or 3.

We will not return applications where the client has not answered these questions. However, it is important that you encourage clients to answer these questions.

Please also note that the *Equality Card* is available in a number of other languages on the Board's website www.slab.org.uk in the other languages section. If you require a version in a language or format not available on our website, please contact the Board's Communications Department.

Section J

Financial verification

On the new application and increase forms, you now need to provide more information on the evidence you have seen to be satisfied your client is financially eligible. This is to ensure that there is evidence that the £20 million of public money spent each year on civil advice and assistance is only funding cases where the client meets the rules set by Parliament.

In cases, where you have not seen any evidence, you should explain how you were satisfied without any verification that the client was financially eligible.

In such cases where you do not give us details of financial evidence, although we will not return the form or refuse to consider an increase, we may want to make our own checks directly with the client. We will also be monitoring where no documentary evidence of financial eligibility has been seen. This may help us identify whether solicitors need any further guidance on this matter.

Changes to what the Board sends you

We previously informed you that we are not returning the advice and assistance increase form to you. Instead we will send a letter informing you of our decision. You also should take a photocopy of your increase form for your file.

There is a similar change in situations where the Board returns the advice and assistance form to you as it was not fully completed - for example if the solicitor did not sign the application form. We previously returned the advice and assistance form to you. Now, we will be sending you a letter that explains which information was missing and what should be completed, together with a printed image of the form. You should use the printed image to update the information requested, and then return this to us with a covering letter that includes the applicant's Legal Aid Reference Number.

Civil advice and assistance increase form

Section B

Advice and assistance reference number

When completing the increase form, you may be providing your client's advice and assistance case reference number that is allocated by the Board at Section B question 4.

From 1 May, new grants of advice and assistance reference numbers have a new format, starting AA and followed by ten numbers - such as AA1234567890.

If you are applying for an increase for a case where advice and assistance was granted before 1 May, you need to delete two digits from the reference number.

Where your application was made before 1 May 2007, the reference number you will have been given will start AA07 and then followed by ten numbers - such as AA071234567890. When completing the new increase form, you can therefore delete the "07" after AA from the reference number, and just complete the last 10 numbers so that it is in the new format.

Section E - Urgency

Is your application for an urgent matter?

If your case is urgent, you should complete Section E, increase urgency. Please be realistic that your case is urgent before completing this section.

You must tell us either the date of the appearance, or another reason for urgency. If you do not, or you do not satisfy us that the case is urgent, we will deal with the application for an increase within our normal timescales. Examples of reasons for urgency that we would be likely to accept are an imminent tribunal date or the need to prepare documents to avoid a court appearance. However, an upcoming

appointment with your client is not in itself an acceptable reason to treat the application as urgent.

We have been receiving applications where the solicitor has included information to confirm a telephone or faxed application decision at Section E about increase urgency. If you are telling us about a fax or telephone decision, this should be given at Section F question 3.

Section G

If you are applying for a template increase

When using a template it is important to remember that:

- the template increase is not a guarantee of a certain payment for all work done up to the template amount, but only for work assessed as actually, necessarily and reasonably done, and outlays actually, necessarily and reasonably incurred within the limit of authorised expenditure set by the template. You still need to submit fully detailed accounts showing costs incurred and actual time spent dealing with the case.
- the effective date of a grant of authorised expenditure where an increase has been obtained using a template is the date the Board approved the request.

To help you get a decision on your application for an increase, please complete the increase application form correctly, and remember that:

- you should use our guidance to check that the template applies in your case and that you can confirm the criteria are met. You should also use the table of templates to category codes list to ensure you can use the template for the category of case. If you select a template when it does not apply to your type of case as identified by the category code, your request will be rejected.
- if you are seeking an increase in authorised expenditure to enable an application for civil legal aid to be made, you do not automatically select template

8. You should consult our guidance on increases in authorised expenditure for your client's type of case that is in the Civil Legal Assistance Handbook (an extract of which was included in the "Increases in authorised expenditure" guidance issued with update 7). For some templates, the work towards applying for a civil legal aid is covered by the template, and for others, particularly family cases, you should select a standard additional work item. It is therefore only a small number of situations where template 8 will be the appropriate way to request an increase for applying for civil legal aid.

- you cannot complete Section G, question 1, template 60 with your own proposed work. This space is only for future templates that are not listed on the form, and can only be used when we have issued guidance about these. Any increase application that uses this space until new templates are introduced will be rejected. If you are seeking an increase for work that is not a template, you should complete Section H.
- if you are applying for a template increase, you should clearly mark the template you are applying for by putting a cross in the box next to the template number. We have been receiving applications where the choice of template is not marked or is not clear, and these have had to be rejected.
- If you are not applying for a template increase, you cannot use Section G question 3 or 4 to request standard work items. To request an increase for this work, you must complete Section H.

Applying for more than one template

You can apply for more than one template at a time, but you should only select one template - the principal one - at Section G Question 1. Any additional templates you wish to request should be made at Section G Question 4.

How to complete the increase form for a second or subsequent template increase request

Where you were previously granted a template increase and now wish to make a further request for an increase in expenditure, you should complete either:

- Section G template increase, if you wish to request another template increase. You can also include any additional work items with the new template.
- Section H of the increase form if you are seeking an additional work item associated with a template, but you are not applying for another template in that increase. This is because you can only request additional work items at Section G questions 3 and 4 at the time of applying for the template. For example, if you were originally granted template 22 for divorce, but did not request mediation as an extra work item at the time, and now three weeks later you wish to request this, you should now complete Section H.
- you also complete Section H if you are applying for a non template matter.

Making an increase request for cases where an increase was previously granted before 1 May 2007

Before the new increase form came into use on 1 May 2007, there were fewer templates with lower values of authorised expenditure available. It is therefore likely that you may not have used a template before, but if you make another increase in authorised expenditure request, you are likely to wish to use one. You can make such increase applications, so that pre-1 May cases can also benefit from our template approach.

However, to enable pre-1 May cases to move over to the new template system as simply as possible, we require your help in completing the form:

- you should give us the current expenditure limit at Section F question 2
- the value of the increase will be the amount for the template and any

additional items requested. It will **NOT** include the previous expenditure limit in addition to the template value. This is because we expect that most work previously requested will be the same as some stages of the template. For example, if you had previously been granted an increase of £400 for work on a divorce case, and now wish to request template 22, value £1200, the new increase in authorised expenditure will be £1200.

- In situations where previous increases included authorisation for work that is not included in the scope of the template, you should make another request with the template to cover this work. For example, you may have had authorisation to instruct a specialist expert, which would now be considered as an additional item at question 3 or 4 of the form. You should now request an increase to cover this work by completing Section G question 3 or 4 after requesting the template increase.
- if you were granted a template increase before 1 May, the value of authorised expenditure will remain the amount previously agreed by the Board. Although from 1 May the value of nearly all templates has increased, we cannot automatically uprate the authorised expenditure limit to the new values. Therefore, if you now wish to have the limit set to the new value for that template, please submit an increase application for the template you are using.
- if you do not wish to move to using a template for an ongoing case, you can continue to request increases in expenditure by using Section H of the form, which is similar to the previous form.

Section H

If you have applied for a template

increase, do not complete Section H

Remember that if you are applying for a template increase, by completing Section G, you do NOT normally need to complete Section H. This includes telling us the total increase in expenditure sought at question 4. (In some situations you may use space at question 3 where you are continuing an answer from the templates section or to explain information that is required for a particular template, as detailed in our guidance).

We have been receiving increase forms where the solicitor has requested a template and then completed this Section H. As part of our simplification and greater use of templates, we removed the Section H questions for template increases. Please therefore ensure you are not completing information that we do not require you to provide.

Applying for increases that do not use a template

On the previous increase form, you had to state the overall total new expenditure limit that you sought, and detail the work with a breakdown of costs. Now, you still provide details of the work and a breakdown of costs, but at Section H question 4, we ask you to give the amount you are requesting for that increase only. Please therefore ensure you are giving the correct figure.

If you are not applying for a template increase, you cannot use Section G question 3 or 4 to request standard work items. To request an increase for this work, you must complete Section H.

Cases involving children

Please remember that you do NOT use the children's advice and assistance forms just because the matter involves a child.

We are often receiving now the wrong advice and assistance form for issues involving children. You should note that just because you are acting for a child, this does not necessarily mean that you complete the pink children's advice and assistance form.

- The pink children's advice and assistance forms are used when you represent an **adult or a child** in a matter relating to children's hearings and associated court proceedings (Part II Chapters 2 and 3 of the Children (Scotland) Act 1995) For example, if you are acting for a parent whose child has been referred to a children's hearing, or to the sheriff to establish disputed grounds for referral to a children's hearing, then you would complete the pink children's advice and assistance form on behalf of your adult client.
- *If you act for a child in any **civil matter** (i.e. not a children's hearing matter) you should complete the red civil advice and assistance application form on behalf of your child client. For example, civil cases may include situations that involve residence and contact issues, or involve an education or reparation matter.*