

SIMPLIFICATION OF CIVIL LEGAL AID

GUIDANCE ON USING REVISED FORMS

The Board is introducing new forms for all civil legal aid applications in February 2009. This guidance provides information on the changes. More information about civil legal aid procedures can be found in our Civil Legal Assistance Handbook on our website at www.slab.org.uk. If you have any difficulty completing these forms please contact our Applications telephone unit on 0131 240 2067 or e-mail general@slab.org.uk for assistance.

Complete all forms clearly in black ink using capital letters. Please try to avoid attaching covering letters or additional sheets – there ought to be room on each form for you to provide details to support the application.

We give guidance below on the following new forms:

- CIV/SOL/FAMILY 2
- CIV/SOL/NON-FAMILY 4
- CIV/SU 6
- CIV/SANCTION 7
- CIV/AMEND/FAMILY AND CIV/AMEND/NON-FAMILY 10
- CIV/TRANSFER 11
- CIV/CEASE 11
- CIV/REP 12

CIV/SOL/FAMILY – APPLICATION FORM

There are two separate application forms for initial applications for civil legal aid: one for use in family cases, and the other for non-family related applications. If you do not use the correct form for the type of case you are putting forward, we will return the application. A list of the categories covered by each type of application is included at Section G of each form.

Section A – application content

If you are also using this form to apply to do specially urgent work immediately, we need to know so that we can deal with it timeously. In this section, tell us whether

- you are applying for, or notifying us, of special urgency work has been made at the time of lodging the initial with this application or
- whether you are notifying us of work that has already been undertaken in terms of regulation 18(1)(a) or
- you have already separately applied for special urgency work – in which case you should enter the reference number.

Section B – the applicant

Question 10 asks for a correspondence address for the applicant if they do not want any letters that we send to go to their usual home address. It is important to complete this section if correspondence is not to go to the applicant's home address.

Section C – special urgency

Remember to complete the first question where work has been done in terms of regulation 18(1)(a). You also need to tell us when the special urgency work started.

Answer question 3 where you need our approval for work to be undertaken as a matter of urgency. You do not need to give us extensive supporting information. Just give us brief details of the urgency such as the date of any hearing in court or proof.

Section D – special urgency mandate

The special urgency mandate is now part of the civil application form. You no longer need to complete a separate form. Give us full information about the applicant's financial circumstances including, where relevant, any details of a partner's financial circumstances.

Question 6 of Section D asks you to calculate the total disposable income and total disposable capital. Once you have calculated these, you must tell the client what their total contribution is likely to be. When we carry out a full financial assessment, this contribution may change and we will let you and your client know the exact contribution, if any, due.

Section G – application details

You need to tell us the nature of the case for which the applicant is seeking civil legal aid by putting a cross in the box in the appropriate category codes. Question 1 asks you to identify the primary category by putting a cross in one box only in the primary (P) column. Once you have chosen one primary category, show any ancillary matters by putting a cross in the appropriate box(es) in the ancillary (A) column. Only put crosses against those category codes for which you are seeking civil legal aid.

If you are defending an action do not select any categories for parts of the case your client is not defending. For example, if you do not want to defend a crave for divorce do not

select any divorce category code but restrict your selection to the category codes for which your client seeks legal aid cover.

Section H – determination of statutory tests

Please tell us if the applicant is a party to any connected civil proceedings in the United Kingdom or elsewhere. If they are a party to such proceedings then we need you to give us full details of the proceedings explain why you consider it appropriate to make this application for civil legal aid to be made.

Use this section to provide us with details of:

- attempts made to settle the matter through negotiation, mediation or otherwise;
- attempts the applicant has made to settle proceedings, and
- information about any offers made to settle the proceedings by the other party.

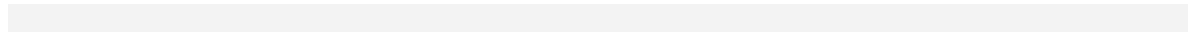
We need full information on any such attempts or an explanation to show why no attempt has been made to settle matters.

Question 9 asks you to assess the prospects for achieving a satisfactory outcome for your client. We need you to complete this section irrespective of whether the prospects are excellent, good, fair or poor.

At Question 11, estimate the costs of any proceedings. You also need to give us details of the value of any claim for money or property in the action if applicable. Question 15 asks you to identify how any claim for money or property will be met and this must be completed whenever such a claim is being made.

Section M – statutory statement memorandum

You can use Section M to give us the statutory statement we send to the opponent to notify them that an application for civil legal aid has been lodged. You do not have to use this section if you prefer to submit a separate document. If you do not use Section M please ensure that any statutory statement you send us sets out the nature of the case and the interest of the applicant in the case, and that both you and the applicant sign it.



CIV/SOL/NON-FAMILY – APPLICATION FORM

There are two separate application forms for initial applications for civil legal aid: one for use in family cases, and the other for non-family related applications. If you do not use the correct form for the type of case you are putting forward, we will return the application to you. A list of the categories covered by each type of application is included at Section G of each form.

Section A – application content

If you are also using this form to apply to do specially urgent work immediately, we need to know so that we can deal with it timeously. In this section, tell us whether

- you are applying for, or notifying us, of special urgency work has been made at the time of lodging the initial with this application or
- whether you are notifying us of work that has already been undertaken in terms of regulation 18(1)(a) or
- you have already separately applied for special urgency work – in which case you should enter the reference number.

Section B – the applicant

Question 10 asks for a correspondence address for the applicant if they do not want any letters that we send to go to their usual home address. It is important to complete this section if correspondence is not to go to the applicant's home address.

Questions 13 to 16 ask you to identify whether there are any other forms of funding that might provide help with legal costs. It is important that these questions are completed fully to allow us to assess whether or not it is appropriate to grant civil legal aid.

Section C – special urgency

Remember to complete question 1 where work has been done in terms of regulation 18(1)(a). You also need to tell us when the special urgency work started.

Answer question 3 where you need our approval for work to be undertaken as a matter of urgency. You do not need to give us extensive supporting information. Just give us brief details of the urgency such as the date of any hearing in court or proof.

Section D – special urgency mandate

The special urgency mandate is now part of the civil application form. You no longer need to complete a separate form. Give us full information about the applicant's financial circumstances including, where relevant, any details of a partner's financial circumstances.

Question 6 of Section D asks you to calculate the total disposable income and total disposable capital. Once you have calculated these, you must tell the client what their total contribution is likely to be. When we carry out a full financial assessment, this contribution may change and we will let you and your client know the exact contribution, if any, due.

Section G – application details

You need to tell us the nature of the case for which the applicant is seeking civil legal aid by putting a cross in the box in the appropriate category codes. Question 1 asks you to identify the primary category by putting a cross in one box only in the primary column. Once you have chosen one primary category, show any ancillary matters by putting a cross in the appropriate box(es) in the ancillary (A) column. Only put crosses against those category codes for which you are seeking civil legal aid. For example, if an action seeks a

variety of orders including a payment crave and you do not want to defend this crave do not select any payment category box but restrict your selection to the category codes for which your client seeks legal aid cover.

Section H – determination of statutory tests

Please tell us if the applicant is a party to any connected civil proceedings in the United Kingdom or elsewhere. If they are a party to such proceedings then we need you to give us full details of the proceedings and explain why you consider it appropriate to make this application for civil legal aid.

Use this section to provide us with details of:

- attempts made to settle the matter through negotiation, mediation or otherwise;
- attempts the applicant has made to settle proceedings, and
- information about any offers made to settle the proceedings by the other party.

We need full information on any such attempts or an explanation to show why no attempt has been made to settle matters.

Question 11 asks you to assess the prospects for achieving a satisfactory outcome for your client. We need you to complete this section irrespective of whether the prospects are excellent, good, fair or poor.

At Question 13, estimate the costs of any proceedings. You also need to give us details of the value of any claim for money or property in the action if applicable. Question 17 asks you to identify how any claim for money or property will be met and this must be completed whenever such a claim is being made.

Section M – statutory statement memorandum

You can use Section M to give us the statutory statement we send to the opponent to notify them that an application for civil legal aid has been lodged. You do not have to use this section if you prefer to submit a separate document. If you do not use Section M please ensure that any statutory statement you send us sets out the nature of the case and the interest of the applicant in the case, and both you and the applicant sign it.

CIV/SU – SPECIAL URGENCY FORM

The form CIV/SU is a new form designed to cover:

- telling us you have undertaken work as a matter of special urgency following a civil legal aid application
- situations where you need our prior approval to undertake work in terms of regulation 18(1)(b)
- telling us you are undertaking work under regulation 18(1)(a) and, at the same time, seeking our prior approval for work under regulation 18(1)(b).

There are no longer two separate special urgency forms.

Section D – Special urgency

Only complete Section D where you need our approval for urgent work. You do not have to give us extensive supporting information. You only need to give us brief details of the urgency such as the date of any hearing in court or a short explanation of the need to carry out work before the civil legal aid application is determined.

Section E – special urgency mandate

The special urgency mandate is now part of the special urgency form. You no longer need to complete a separate form. Please give us full information about the applicant's financial circumstances including, where relevant, details of a partner's financial circumstances.

Question 6 of Section E lets you calculate the total disposable income and total disposable capital. Once you have calculated these, you must tell the client what their total contribution is likely to be. When we carry out a full financial assessment, this contribution may change and we will let you and your client know the exact contribution, if any, due.

CIV/SANCTION – SANCTION APPLICATIONS

You must use this form for all requests for sanction for counsel, experts, unusual work or unusually large expenditure in civil cases.

Please read the explanatory notes included on the form when you are making a sanction request. Details about the approach taken to sanction applications are in the Civil Legal Assistance Handbook on the Board's website at www.slac.org.uk.

Section A – The applicant

Please tell us if legal aid has been granted in the case.

Section C – The case

If you need sanction before a hearing, it is important to tell us when the case is next in court so that we can deal with your request timeously. If no date has been set, leave this question blank.

Section D – Templates for expert reports or mediation

We have introduced templates for using certain experts and mediation.

If you apply for sanction using a template you do not need to send us substantial information about the case such as copies of the pleadings or comparative quotes. In addition, you do not have to provide the name of the expert you are instructing.

We have not introduced templates for cases where we would need a substantial amount of information before authorising a particular type of expert's involvement. If the expert you wish to use is not included in the list of templates you should complete the sanction application at Section E.

Where there is an appropriate template, you can use it:

- for only one expert within a given category, or for mediation, where it is the first time you have applied for sanction for this particular type of expert, or for mediation, in this case
- where you need sanction for more than one expert in different categories of template – for example, for a gynaecologist's report and a midwife's report.

You can't use the templates:

- if you have previously asked for sanction for this particular type of expert, or for mediation, even if we refused the previous request
- where you want to get a supplementary report from an expert, even if this would be covered under an existing template limit for that expert
- if we would need a substantial amount of information before authorising a particular type of expert's involvement
- for retrospective approval for sanction.

You should use the template for an expert report or mediation where you are seeking sanction for the first time for that particular type of expert to prepare a report or to use

mediation. The categories covered and the maximum levels for expenditure (excluding VAT) allowed for the report are shown in the templates listed at Question 1, Section D.

The templates do not allow you to instruct an expert to produce a supplementary report, even if you have sufficient funding left over within the template limit from the first report from that expert. If you need a supplementary report you should apply for this at Section E.

You can use more than one template when seeking sanction. Where it is your first request to instruct a specific type of expert or to use mediation you can ask for one expert or authority for mediation in each relevant template category. For example, in a reparation case you can use the templates for reports from a health and safety expert and an orthopaedic surgeon. If, however, you want sanction for two health and safety expert reports you can only use a template for one, and ask for the second health and safety expert at Section E. You do not need to apply for all the experts you want for the case using the templates at one time. If, for example, you previously asked for sanction for a health and safety expert using a template and you now want sanction for an orthopaedic surgeon's report you can use Section D.

Where you have authority to instruct an expert report using the templates in Section D you do not have to ask us for cover for their subsequent attendance at court should this be necessary.

You cannot use the templates at Section D to get retrospective authority to use an expert or mediation. If you need retrospective authority, complete Section E.

When you ask for sanction using the templates, by marking a cross in the relevant expert or mediation box you are confirming that:

- the fees to be charged are within the approved level of expenditure set out in the template;
- this is the first time you have applied for sanction for this category of expert report or mediation;
- you have undertaken all the work necessary in respect of the template as set out in any guidance in the Civil Legal Assistance Handbook; and
- you are not asking for sanction retrospectively.

Section E – Sanction for experts where a template is not used

Section E allows you to apply for two different experts. You can use it on its own or in addition to Section D. If you wish to apply for sanction for more than two experts using section E, you have to use more than one form.

You need to provide information about the expert to be instructed and their location. You need to set out the precise nature of the work the expert is to undertake and show the costs of preparation of any report, travel, meetings and court attendance.

Where the cost of the expert's report is less than £1,750 you do not need to provide a comparative quote. If the cost of the report is £1,750 or more, you need to provide us with a comparative quote or a detailed explanation setting out why a comparative quote is not available. You also need to tell us why the particular type of expert is needed for the case.

Section F – Sanction for counsel

You need to tell us what work counsel is to undertake in the case and give full reasons to show why counsel is needed to take forward matters.

Section F – Sanction for unusual work or unusually large expenditure

Unusually large expenditure is a single item of work that costs £2,000 or more. For example, a child welfare report in a contact case may well cost in excess of £2,000 and you must get our sanction for such a report. We cannot approve unusually large expenditure retrospectively. Please ensure you have the authority you need to cover any such work before you undertake the work or instruct it. Where the cost of the work is less than £2,000 you do not need our sanction but if you are more comfortable getting prior sanction then it is open to you to apply using Section G.

Unusual work includes commissions. Sanction is always needed for a commission (open or otherwise). More details on work of an unusual nature or work that is likely to involve unusually large expenditure are in the Board's Civil Legal Assistance Handbook.

You need to tell us what you are asking for sanction for and the likely total cost of the work. We need information to show why the work is necessary and what other steps have been considered to take matters forward.

CIV/AMEND/FAMILY AND CIV/AMEND/NON-FAMILY – AMENDMENT APPLICATIONS

There are two separate application forms for amendments or extensions to existing grants of civil legal aid: one for use in family cases and the other for non-family related applications. If you do not use the correct form for the type of case you are putting forward, we will return the application to you.

Section B – Amendment or extension sought

You need to tell us what aspect of the case or the grant of civil legal aid you wish to amend. Where the scope of the grant is to be changed, tell us at question 2 only the additional categories for which you are seeking legal aid – do not put crosses against any categories covered by the existing grant of civil legal aid. Section B also asks you to show any changes to the applicant’s interests in the proceedings, changes to the court involved or additional parties in the action.

Section C – Determination of statutory tests

You need to give us

- an updated estimate of the cost of any proceedings taking into account any changes in the nature of the case
- your assessment of the prospects of a satisfactory outcome for your client and
- details of the value of any claim for money or property in the action.

Section D –Amendment or extension changes to proceedings and/or opponents or interested parties

Only complete this section where the proceedings and/or the opponents or interested parties in the case have changed. You do not need to complete it where:

- the applicant’s interest in the proceedings has changed; or
- the court has changed.

You should provide details of:

- attempts made to settle the matter through negotiation, mediation or otherwise
- attempts the applicant has made to settle proceedings and
- any offers made to settle the proceedings by the other party.

CIV/TRANSFER – TRANSFER APPLICATIONS

The revised form for applying to transfer legal aid to another solicitor introduces tick boxes covering the most usual reasons for a solicitor asking for a transfer of a grant of civil legal aid. These are set out in Section E. In most cases, if the reason is covered by one of the boxes, all you need to do is to put a cross in the relevant box. You do, however, need to provide more information where the solicitor/client relationship has broken down, or if the reason is not covered by one of the boxes, as this may impact on the appropriateness of the grant of civil legal aid continuing.

It will help us deal with the transfer application quickly if you send us confirmation from the existing solicitor that

- they have no objection to the transfer of legal aid
- they consider it reasonable for the applicant to continue to receive legal aid

or send us other written information as to why the case should be transferred. If you do not send us this, we will have to contact the existing solicitor to get their views on the transfer.

CEASE/APP

The revised form for notification of ceasing to act introduces tick boxes covering the most usual reasons for a solicitor withdrawing from acting. These are set out in Section C. In most cases, if the reason is covered by one of the boxes, all you have to do is to put a cross in the relevant box. You do, however, need to provide more information where the solicitor/client relationship has broken down, or if the reason is not covered by one of the boxes, as this may impact on the appropriateness of the grant of civil legal aid continuing.

CIV/REP – REPORTING FORM

Use this form:

- Where we have asked for a time-based report. We will ask for time-based reports where:
 - a grant of civil legal aid for a family case category code has been in place for 18 months or more, and we have not terminated the grant or received a final account; and
 - the grant of civil legal aid for a non-family category code has been in place for two years or more and we have not terminated the grant or received a final account.
- To tell us about any material changes in a case or in an individual's circumstances that may impact on the availability of civil legal aid – that is, what the form describes as “an unprompted report”.

It is the responsibility of the solicitor acting to notify us of any changes in circumstances in relation to a case or to an applicant's circumstances. You must use this form when such a change occurs.

Section C – Reporting information

You must complete all the questions in Section C. We need

- details about the stage the litigation has reached and whether any hearings are scheduled
- your up-to-date assessment of the prospects of achieving a satisfactory outcome for your client and
- where applicable, details of any claim for money or property in the case including the value of any such claim and the prospects for recovery.

You must provide an updated estimate of the likely cost of seeing the case to a conclusion. Questions 9 and 10 at Section C ask you about any changes in circumstances in the case and whether you consider it reasonable for civil legal aid to remain in place. We need full information in response to these questions.

More detailed guidance on our approach to stage reporting and in particular the obligation on a solicitor to report any changes in circumstances is in our Civil Legal Assistance Handbook on the Board's website at www.slac.org.uk. You should read this guidance carefully before completing any application.