

CHANGE IN NOMINATED SOLICITOR

We have introduced improved arrangements for handling a change in the nominated solicitor in certain advice and assistance cases. This would occur where a solicitor can no longer provide advice and assistance to a client and it is agreed by those concerned that another solicitor in the same firm will take the case over.

Such a situation could arise if, for example, a solicitor retires or otherwise leaves private practice, dies or moves to another firm with agreement that his or her cases will remain with the original firm.

In cases of this kind, with immediate effect, it will be possible to amend the existing grant of advice and assistance by substituting the name of another solicitor in the firm as the nominated solicitor.

There are considerable benefits in these new arrangements.

For the solicitor

- the new solicitor does not need to ask the client to complete another advice and assistance application
- there is no need to intimate a fresh grant of advice and assistance to the Board to ensure payment
- only one account has to be framed at the conclusion of the advice and assistance
- paperwork is minimised

For the client

- there is no need to complete a second application form
- there is no fresh assessment of means and therefore
 - no additional contribution
 - no risk of failure to qualify financially for further advice on the same subject.

These arrangements will only apply in circumstances where all of the criteria below are met

- the existing solicitor is unable to complete the course of advice and assistance
- the course of advice and assistance is to be completed by another solicitor in the same firm
- all parties - the original solicitor, the new solicitor and the client agree to the arrangement
- one account will be rendered at the conclusion of the advice and assistance under the new solicitor's practitioner code and paid in accordance with his mandate.

If all of these criteria apply, you should follow the procedures below.

Write to the Advice and Assistance Applications Division of the Board

- informing them that you wish to change the nominated

solicitor and

- explaining the reasons (e.g. the retirement of the nominated solicitor from the practice).

- A single letter should be sent with a list of all affected applicants and reference numbers. Given the circumstances in which this is likely to arise a number of grants may be affected.

- The letter should be signed by the solicitor who will be taking the cases over, giving the practitioner number and branch code. The new solicitor must sign the letter as an individual rather than on behalf of the firm.

- The letter must also normally be docketed by the existing solicitor indicating his or her consent. If it is not possible to obtain consent the reasons for this must be clearly stated.

- Where the nominated solicitor has died it is necessary to produce consent from the executor for a second solicitor to act. If the executor is not prepared to grant consent then a second application must be made.

- Each client must sign a letter asking the Board to allow advice and assistance to be obtained from another solicitor on the same subject matter. The letter should be in the following form.

“I hereby request the Scottish Legal Aid Board to allow me to continue to obtain advice and assistance from [insert name of new solicitor] under the following reference numbers [insert reference numbers of all grants of advice and assistance where substitution is required].”

- All relevant advice and assistance certificates must be returned for amendment.

Other situations where a client seeks advice from a second or subsequent solicitor.

In all other situations where a client seeks advice from a second or subsequent solicitor on the same subject matter, it will continue to be necessary for the client to obtain permission from the Board to instruct another solicitor and to make a fresh application for advice and assistance.

INFORMATION FOR NON-QUALIFIED STAFF

Following discussion with the Law Society we have produced guidelines for the use of non-qualified staff as to what they work they may and may not undertake in respect of advice and assistance. This is enclosed with this issue of the *Recorder*.