



Supplement

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Green Form Legal Advice and Assistance – Guidance and Costs Guidelines

In December 1993 costs guidelines for Green Form Legal Advice and Assistance were published in Focus. Those guidelines and the guidance to area office caseworkers have now been updated and enhanced following extensive consultation with interested practitioner groups. The external consultees included The Law Society, Law Centres Federation, ILPA, Solicitors Family Law Association, Housing Law Practitioners Group, Association of Lawyers for Children, Disability Law Service, Social Security Law Practitioners Association, Community Care Practitioners Group and London Criminal Courts Solicitors Association. The area offices will be working to the revised guidance and guidelines from **1 May 1996** following appropriate introduction and training.

The costs guidelines reflect area office practice for standard cases and are intended to enable both area offices and franchisees with devolved powers to reach consistent decisions. Applications are decided on the information available and the absence of sufficient information to enable a reasoned decision to be made will lead to a refusal or partial refusal of the application.

The guidelines give an indication of when it would be likely to be considered that an extension to the costs limit was appropriate. Area offices will be working to the guidance and guidelines in assessing costs claims as well as in considering extension applications, and so they provide a helpful indication to all practitioners – franchise holders or not – of whether an extension is likely to be granted and a costs claim allowed.

The text below summarises the guidance and costs guidelines to be issued to area office staff and gives the relevant paragraph references. The full guidance will be made available to franchisees through an update to the Guidance on the Exercise of Devolved Powers and we are considering ways of making it available to non franchisees.

The guidance is not reproduced in full here as it is primarily intended to be a training and reference tool for caseworkers and franchisees.

The guidance on same and separate green forms has also been enhanced and the material which will be included in the updated Guidance on the Exercise of Devolved Powers and

applied from 1 May 1996 is reproduced below. This guidance replaces the guidance which currently appears at Notes for Guidance 2-13 to 2-16 Legal Aid Handbook 1995. A new edition of the Handbook is due to be published in the summer of 1996 and will reflect the revision of this guidance.

Further copies of this Supplement can be obtained from the Board's Press and Publications Section at Legal Aid Head Office, 85 Gray's Inn Road, London WC1X 8AA (DX No. 328) – telephone 0171 813 1000 ext. 8676. Any comments on the guidance should be made to SQA Group at the same address.

4. Costs Guidelines

- 4.1 Although each case must be considered on its merits, the guidelines which appear in this material are intended to assist caseworkers as to the units of time (and therefore the costs) which are likely to be considered reasonable. They will be published to franchisees as they will need to be able to justify their costs when they consider an extension to the initial (or subsequent) costs limit and/or when a claim is made for payment. If the information available does not justify a grant or partial grant, then the application should be refused and the reason(s) made clear.
- 4.2 Each case must be considered on its own facts and merits, so the guidelines can be no more than indicators. There is no suggestion that the exact time indicated will be reasonable in every case within the particular legal subject area. There will be cases where spending less or more time will be justified, given all the circumstances of the particular case but the guidelines are based on competent and experienced advisers working on cases of average complexity/ difficulty for clients without special needs, such as learning difficulties, material physical disabilities or lack of English. Such special needs may increase the time which has to be spent with the client and/or to progress the case.
- 4.3 Guidelines are not given for every area of work but only for those areas which are most common or where

there are standard steps or procedures to be taken/ followed and costs guidelines may be of particular assistance.

4.4 The existence of the guidelines should in no way encourage franchisees (or other firms) to work/claim up or down to them. The costs in each case must be justified in the usual way. The guidelines refer to the units of time necessary to undertake the work specified.

4.5 The guidelines are given in terms of units and time so that they do not have to be updated with changes in the remuneration rates. They have been calculated by reference to 6 minute units as it is recognised that many solicitors' practices use this recording system. The guidelines are intended to include any necessary letters and telephone calls but not disbursements. They do not allow for travelling/waiting or a home visit which would have to be justified in any particular case.

4.6 Complexity

4.6.1 The costs guidelines which are given are based on competent and experienced advisers working on cases of average complexity/difficulty for clients without special needs; such as learning difficulties or material physical disabilities (paragraph 4.2 above).

4.6.2 Each case must be considered on its own facts and merits but the following are factors which may set the particular case outside the guidelines so that the costs which would be necessary, and therefore reasonable, would be in excess of the guidelines:

- (a) the complexity of the subject matter itself;
- (b) difficult or novel point(s) of law outside the mainstream of work in that subject area of law;
- (c) the volume of documentation required to be considered;
- (d) difficulty in obtaining standard documentation /undertaking standard steps, either through practical difficulties such as obtaining papers lost/ held by someone else or the delay/ obstructiveness/ lack of co-operation from the other side or any relevant administrative body such as the Housing Benefit Office e.g. as to service or progressing the case;
- (e) the nature of the client leading directly to an increase in costs because of his/her particular characteristics/needs. For example, if the client has learning difficulties, is disabled, has insufficient knowledge of English to communicate with the solicitor or is particularly vulnerable or difficult to take instructions from. If clients are unreasonably demanding, it may be unreasonable for additional costs to be incurred. It may be difficult for the area office to judge this although the solicitor may decline to provide further advice and assistance.

4.6.3 This list is not exhaustive and one or more factors may be present in any particular case. Ultimately, however, the caseworker must decide (in accordance with Regulation 21(2) Legal Advice and Assistance Regulations 1989) whether it is reasonable for the advice and assistance to be given and whether the estimate of costs incurred is reasonable given the particular circumstances.

4.6.4 The fact that a particular case involves a difficult or novel point justifying either legal research by the solicitor or the obtaining of an opinion from counsel is a factor which may place a particular case outside the guidelines. However, the caseworker is entitled to assume that the work is being undertaken by a competent and experienced adviser and therefore that basic legal research should not be included in any green form costs but rather treated as training (and therefore as an office overhead) (Note for Guidance 2-07).

4.7 Allowing less than the guidelines

4.7.1 The guideline times are an indication of the figure up to which costs in a case of average complexity/ difficulty would normally be justified (see paragraph 4.2 above). However, just as there are cases where spending more time will be justified there are cases where spending less time may reasonably be expected.

4.7.2 Factors which may justify allowing an amount less than the guidelines include:-

- (a) economies of scale (resulting for example, from the use of a single expert to provide reports in a number of cases);
- (b) the use of working methods which reduce the time spent (e.g. the use of questionnaires to establish facts/issues), the use of proformas to take instructions, the use of modern technology e.g. to carry out calculations/ produce standard documentation. This is common in welfare benefits cases in particular. Where standard proforma letters are used the "routine letter" rate should still be applied although it is reasonable to expect solicitors to minimise rather than maximise the number of letters (amalgamating information or requests for information where possible).
- (c) Where a computer program is used to generate a calculation or a report, the time spent obtaining and inputting the relevant information to extract the calculation or report can be remunerated but only where it is reasonably undertaken by a fee earner.

4.7.3 Local, individual variations from the guidelines may be justified, although there should be no "blanket" departures from the guidelines based on only e.g. locality, the firm involved or the nature of the work. That is to say any variation must be capable of justification in the particular circumstances.

Separate Green Forms

2.6 Separate Matters, Separate Green Forms – When are matters separate?

- 2.6.1** The rule under Regulation 17 Legal Advice and Assistance Regulations 1989 is that, where two or more separate matters are involved (this includes where one matter is treated as two separate matters) each matter must be the subject of a separate green form. There is an exception for matters connected with or arising from proceedings for divorce or judicial separation, actual or prospective. Whether matters are (or are treated as) separate is an issue of fact and not one where the area office can give an authority.
- 2.6.2** A single green form should be used to identify the issues and provide general, preliminary advice. If one issue is identified then the original, single green form should be used for the provision of further advice and assistance. If other separate legal issues *are identified or subsequently arise* requiring separate progression, then a further green form or forms should be used.
- 2.6.3** Whether single or multiple green forms are used the solicitor must justify the work done and costs incurred. Duplicated work should not be remunerated and work undertaken under one form (or previously under the same form) may affect the reasonableness of subsequent work under the same or separate forms (reflecting e.g. the solicitor's existing knowledge of the client and circumstances).

2.7 Separate Matters

2.7.1 Separate Matters – Advice about more than one category of work

- 2.7.1.1** Where the two matters are genuinely different problems requiring separate advice and assistance, albeit at the same time, these are probably separate matters justifying separate green forms.
- 2.7.1.2** Where two or more matters arise from the same set of circumstances, the chances of them being separate matters diminish.
- 2.7.1.3** Where two matters or more lead to one single action, cause or matter, one green form should be used.
- 2.7.1.4** Where two or more matters would be dealt with under one legal aid certificate, one green form should be used.
- 2.7.1.5** Where advice and assistance is given as to a review or appeal in a matter on which advice was previously given, the same green form should be used e.g. to appeal against a refusal of legal aid or to appeal at any stage in the Immigration appeal process (including by way of judicial review.)
- 2.7.1.6** If a client seeks advice as to whether (s)he should

change solicitor from a solicitor already providing advice and assistance, it is not justified to consider this as separate to the advice being given by the previous solicitor. Regulation 16 authority is required before any advice is given under a fresh green form.

2.7.2 Separate matters – Non-Matrimonial

- 2.7.2.1 Debt.** As a general rule each individual debt does not justify the use of a separate green form but where separate proceedings have been issued in respect of different debts, separate green forms in respect of each set of proceedings may be justified.
- 2.7.2.2 Welfare benefits.** Advice and assistance in relation to various welfare benefits including those administered by Local Government *may* justify the use of separate green forms where they are administered by different bodies under different legal regimes and the issues involved/work to be undertaken are separate. It is, however, reasonable to expect that a single green form will be used to provide general, preliminary advice, including checking any benefit currently paid, providing a report on entitlement to welfare benefits generally and advising on applying for particular benefits. Where a separate problem is identified or subsequently arises this may justify the use of a separate, additional green form e.g. general benefits advice followed by a particular housing benefit problem such as a specific query regarding the particular client's entitlement, including a review/appeal (two green forms unless the original green form continued to be used) or followed by particular housing benefit and income support problems (three green forms unless the original green form continued to be used).

Where preliminary, general advice as to welfare benefits is triggered by advice in another legal subject area (e.g. for the solicitor to recognise the need for benefits advice or to indicate benefits available to the client in the particular matrimonial or personal injury context) this will not normally constitute a separate matter justifying the signature of a fresh green form unless/until more specific detailed advice is given e.g. as to the individual client's particular entitlement (including a check of benefit in payment or entitlement report) or as to a specific problem.

Benefit entitlement advice which arises from advice on a child maintenance assessment by the Child Support Agency (and vice versa) should be dealt with under one green form unless/until they become separate matters.

- 2.7.2.3 Child maintenance assessment.** Unless the six months' rule applies, a single green form must be used for advice on child maintenance assessments by the Child Support Agency. This will, where

applicable, be the form used for matrimonial advice and/or benefit entitlement.

2.7.2.4 Housing problems. Problems or remedies arising out of housing difficulties (possession/disrepair, re-housing) would not normally justify the use of separate green forms. However, once a separate problem requiring separate preliminary work e.g. following a decision to institute proceedings (for example under the Environmental Protection Act 1990) has been identified, a separate green form can be signed for that matter (unless the original green form continues to be used).

2.7.2.5 Crime. Charges laid at the same time which are likely to be dealt with under one legal aid order, or are likely to be heard together, should be dealt with under one green form.

Advice given on a similar matter which could be considered to be a "series of offences" should be dealt with by way of the original green form, rather than separate green forms. See NFG 17-22 for guidance on "series of offences".

2.7.2.6 Employment. All issues in relation to the same employer should be dealt with under one green form, unless as a result of clearly separate incidents, separate proceedings are to be taken.

2.7.2.7 Personal injuries. A separate green form is appropriate for each set of proceedings or potential set of proceedings. However, the same green form should be used for one incident (even though various opponents may be involved).

2.7.2.8 Immigration. One green form is appropriate for all aspects of immigration advice including asylum applications, applications for a work permit, visa/leave to enter, etc. Any appeal against refusal both in the immigration appeal process and by way of any judicial review should also be dealt with under the original green form. Advice in relation to related matters such as welfare benefits and housing advice may constitute a separate matter justifying the signature of a fresh green form if specific, detailed advice e.g. as to a specific problem, is given.

2.7.2.9 Consumer/General Contract. Only if genuinely different problems requiring separate advice and assistance arise, will this justify separate green forms. If a similar problem arises involving the same legal issues but various opponents, the same green form should be used unless and until separate proceedings are issued.

2.7.2.10 Family Breakdown. See also paragraph 2.7.3 for Matrimonial (divorce and judicial separation). Unmarried clients may have family breakdown problems and require advice and assistance regarding e.g. the children, an injunction, maintenance and

property. A single green form should be used, including for advice on these and related matters, e.g. debts and housing, unless and until they become separate problems which require separate progression. Where proceedings are likely to be necessary under Section 30 Law of Property Act 1925 this may justify the use of a separate green form bearing in mind that they cannot be taken forward in the same proceedings or under the same civil legal aid certificate as say an injunction and/or Children Act application which should be dealt with under the original green form. (See paragraph 2.6.2)

Advice on welfare benefits in the context of family breakdown may constitute a separate matter justifying the signature of a fresh green form if specific, detailed advice e.g. as to the individual client's particular entitlement or as to a specific problem, is given. This could include a check or entitlement report (rather than merely preliminary, general advice).

2.7.2.11 Family Wills. Advice and assistance in making a will (where available) justifies the signature of a separate green form.

2.7.3. Separate Matters – Matrimonial (divorce and judicial separation)

2.7.3.1 One green form relates to the whole proceedings, i.e. decree, proceedings and all ancillaries are treated as one matter. It will also cover advice on related matters, e.g. welfare benefits, debts and housing unless and until they become genuinely separate problems which are no longer connected with or arising from the matrimonial advice. A separate green form should, however, be completed for advice and assistance in making a will (although the original, matrimonial green form can be used to draw attention to the advisability of making a will).

2.7.3.2 Advice on child maintenance, including advice in connection with an application for assessment by the Child Support Agency, is not a separate matter and must be dealt with under the green form signed in respect of matrimonial advice or proceedings.

2.7.3.3 Even where there are two sets of proceedings, e.g. judicial separation followed by divorce proceedings or two sets of divorce proceedings, provided that they relate to the same marriage they are still to be treated as one matter for green form purposes.

2.7.3.4 Magistrates' court proceedings relating to the marriage do not come within 2.7.3.3 above and can therefore be treated as separate matters for green form purposes, although child maintenance and Child Support Agency assessments will not constitute another separate matter.

Costs Guidelines – General

Applying for Civil Legal Aid – 5 units (30 minutes) or less for matrimonial / family

- 3.3.2.1** It should normally be possible to assist a client in preparing/submitting a legal aid application form in 5 units (30 minutes). The time spent assisting in the preparation of the application itself would normally (but not necessarily) be a part of the initial attendance on the client and be included in the time spent under the initial limit.
- 3.3.2.2** The time spent in assisting in the submission of a civil legal aid application will, however, depend on the complexity of the case and the information which needs to be submitted.

Applying for Abwor – 2 units (12 minutes)

- 3.3.2.3** It should normally be possible to assist a client in preparing/submitting an ABWOR application in 2 units (12 minutes).

Appeal Against Refusal of Civil Legal Aid – 5 units (30 minutes)

- 3.3.3.3** Where the firm has no prior knowledge of the case the time required to be spent will depend on the issues and will form part of the initial attendance to take instructions. Where the firm was involved in the initial application, in all but the most exceptional of cases up

to 5 units (30 minutes) would suffice. In exceptional cases the solicitor may be able to justify the costs (including any necessary disbursement) of obtaining information/evidence sufficient to specifically address a particular refusal reason, although the availability of a limited civil legal aid certificate is a factor in deciding whether the additional work should be funded under the green form. Therefore only a limited extension for limited work would be likely to be justified.

Applying for Criminal Legal Aid – 3 to 5 units (18 to 30 minutes)

- 3.3.6.1** It should normally be possible to assist in applying for criminal legal aid in 3 to 5 units (18 to 30 minutes). Where the firm has no prior knowledge of the case the work in completing the form will be part of the initial attendance to take instructions.

Review of Refusal of Criminal Legal Aid – 3 units (18 minutes)

- 3.3.8.1** Where criminal legal aid is refused it should be possible to assist the client in applying for a review of that refusal in 3 units (18 minutes). Applying for a review is the same matter as the original advice/legal aid application and should be dealt with under the same green form.

General Issues		
Reason for extension	Paragraph reference	Suggested time (Unit = 6 mins)
Applying for civil legal aid	3.3.2.1	5 (or less for Matrimonial / Family)
Applying for ABWOR	3.3.2.3	2
Appeal against refusal for civil legal aid	3.3.3.3	5
Applying for criminal legal aid	3.3.6.1	3 to 5
Review of refusal of criminal legal aid	3.3.8.1	3

Immigration

Application to enter / remain

- 1.1.1 The initial green form limit of 2 hours (20 units)** is normally sufficient for the solicitor to take instructions, and advise on merits, procedure and documentation. The initial limit may also be used to enable the solicitor to familiarise him/herself with a case when instructed at an advanced stage.
- 1.1.2 Marriage and settlement cases.** If the Home Office or E.C.O. raises points of clarification in marriage or settlement cases (eg as to relationship, primary purpose or financial dependency) a further **2-4 hours (20-40 units)** will normally be reasonable

to assist the sponsor/spouse in preparing the answers provided the situation can justify a solicitor providing such advice. The sponsor or applicant may be interviewed in which case the solicitor may further justify his/her attendance.

1.1.3 Reporting outcome and updating client.

Solicitors will often require ½ – 1 hour (5-10 units) at various stages throughout the life of a case to report to their clients and advise them of the options or courses of action open to them.

1.1.4 Courses of enquiry.

Although standard lines of enquiry would be covered by the preparation time suggested in the guidance, other specific lines of

enquiry may justify additional extensions.

- 1.1.5 **Preparation of appeal: 1 hour (10 units)** is normally sufficient time for the solicitor to prepare and submit a notice of appeal to the adjudicator.
- 1.1.6 **Consideration of explanatory statement and preparation for appeal.** Much will depend upon the complexity of the case, the length of the explanatory statement and whether the solicitor is likely to need to see the client again. An extension of **one hour (10 units)** is normally reasonable to consider the explanatory statement, and advise on the merits of appealing. A further **2 hours (20 units)** is normally reasonable to prepare for the appeal. However, if the appeal concerns a multiplicity of issues or particularly complex work or involves the solicitor in obtaining witness evidence, experts reports etc, then extensions of up to **8 hours (80 units)** could be justified.
- 1.1.7 **Attendance before an adjudicator as McKenzie Adviser – Two hours (20 units)** will normally be sufficient. Extensions beyond **four hours (40 units)** would not be common.
- 1.1.8 **Consider merits, advise, prepare and lodge application for leave to appeal to IAT** – a further extension of **two hours (20 units)** will normally be sufficient to cover preparing and lodging each application. Less time should be allowed if Counsel drafts the application for leave to appeal to the Immigration Appeals Tribunal. Extensions beyond **4 hours (40 units)** would not be common.
- 1.1.9 **Consider merits, advise, and apply for Civil Legal Aid to apply for Judicial Review of the IAT's decision to refuse leave** – normally up to **two hours (20 units)** will be sufficient.
- 1.1.10 **Prepare for appeal before IAT, leave having been granted – Two hours (20 units)** is normally reasonable. Extensions beyond **four hours (40 units)** would not be common. Sometimes additional time may be required to go through the procedure at the IAT with the client him/herself if the solicitor is not attending as a McKenzie adviser.
- 1.1.11 **Attendance at IAT as a McKenzie adviser – Two hours (20 units)** will normally be sufficient. Extensions beyond **four hours (40 units)** would not be common.
- 1.1.12 **Consider merits, advise, and apply for Civil Legal Aid to appeal to the Court of Appeal against a decision of the IAT** – between one and **two hours (10-20 units)** is normally reasonable.

Application for Asylum

- 1.2.1 **Initial limit** – The initial limit of **2 hours (20 units)** is normally sufficient to cover the preliminary interview with a client who is not detained, perusal of documents, assessment of status and the merits of the case, and to advise the client on procedure, merits, costs and availability of funding from the legal aid scheme. It would not be unusual for a solicitor to seek to justify an extension of up to **2 hours (20 units)**

in complex cases. In addition reasonable travelling and waiting should be allowed if the client is being detained.

- 1.2.2 **Reporting outcomes, and courses of enquiry.** See paragraphs 1.1.3 and 1.1.4.
- 1.2.3 **Attendance at ASU (Screening Unit) – One hour (10 units)** is normally sufficient to attend the ASU (in addition to reasonable travel and waiting). A further **two hours (20 units)** is normally reasonable if the PAQ interview is also to take place.
- 1.2.4 **PAQ (Political Asylum Questionnaire)** – a further extension of up to **6 hours (60 units)** should normally be sufficient to cover the completion of the Political Asylum Questionnaire, including supporting documentation.
- 1.2.5 **Advising, Preparing and Attending PAQ interviews** – A further extension of **up to six hours (60 units)** should normally be sufficient to cover advising the client on the matters raised and preparing for and attending the interview. Reasonable travel and waiting should be allowed in addition. Additional time may be required following the interview if specific issues were raised which could prejudice the application. The solicitor would need to clarify these points with the client.
- 1.2.6 **Preparation and lodging of appeal to adjudicator** – Where the Home Office refuses Asylum, a further extension of **one hour (10 units)** should normally be sufficient to cover the preparation and lodging of the appeal.
- 1.2.7 **Preparation for the appeal hearing before the adjudicator** – A further extension of up to **4 hours (40 units)** is normally reasonable to prepare for the appeal hearing. Extensions beyond **6 hours (60 units)** would not be common although in particularly complex cases concerning a number of countries extensions of **up to 8-12 hours (80-120 units)** may be justified.
- 1.2.8 **Attendance before adjudicator as a McKenzie adviser – Two hours (20 units)** will normally be sufficient for fast track appeals. Extensions beyond **four hours (40 units)** should not be common. Substantive appeals can take **up to 8 hours (80 units)** to hear.
- 1.2.9 **Consider merits, advise, prepare and lodge application for leave to appeal to IAT** – a further extension of **two hours (20 units)** will normally be sufficient to cover preparing and lodging each application made to the IAT for leave to appeal. Less time should be allowed if Counsel drafts the application.
- 1.2.10 **Consider merits, advise, and apply for Civil Legal Aid to apply for Judicial Review of the IAT's decision to refuse leave** – normally up to **two hours (20 units)** will be sufficient.
- 1.2.11 **Prepare for appeal before IAT, leave having been granted – normally two hours (20 units)** will be sufficient to prepare for the appeal before the IAT. Extensions beyond **four hours (40 units)** would not be common even in complex cases. Sometimes additional time may be required to go through the procedure at the IAT with the client

him\herself if the solicitor is not attending as a McKenzie adviser.

1.2.12 Attendance at IAT as McKenzie Adviser – Two hours (20 units) will normally be sufficient.

Extensions beyond **four hours (40 units)** would not be common.

1.2.14 If exceptional leave to remain has been granted then it will be necessary for the applicant to extend it for further periods of time or to seek to **upgrade**

their status to that of a refugee. It will normally be reasonable to allow a further **1-2 hours (10-20 units)** to assist. However, an upgrade application which is being fully prepared may take just as long as an initial asylum application so appropriate time should be allowed if justified. In view of the timescales involved, very often the original green form will have been submitted and paid in which case the applicant should sign a new green form.

Immigration – Apply to enter/remain		
Reason for extension	Reference	Suggested time (Unit = 6 mins)
Initial limit	1.1.1	N/A
Marriage or settlement cases	1.1.2	20 - 40
Reporting outcome	1.1.3	5 - 10
Courses of Enquiry	1.1.4	Various
Submit notice of appeal	1.1.5	10
Consider explanatory statement	1.1.6	10
Prepare for appeal	1.1.6	20 - 80
Attend appeal before adjudicator	1.1.7	20
Apply for leave to IAT	1.1.8	20
Consider and apply for legal aid to apply for judicial review of IAT decision to refuse leave	1.1.9	Up to 20
Prepare for IAT	1.1.10	20
Attend IAT	1.1.11	20
Consider and apply for legal aid to appeal to Court of Appeal	1.1.12	10 - 20
Asylum		
Initial limit	1.2.1	N/A
Initial advice (complex)	1.2.1	40
Reporting outcome	1.2.2	5 - 10
Courses of Enquiry	1.2.2	Various
Attend ASU	1.2.3	10
Attend ASU with interview	1.2.3	Further 20
Complete PAQ	1.2.4	up to 40
Prepare and attend PAQ interview	1.2.5	up to 60
Prepare and lodge appeal to adjudicator	1.2.6	10
Prepare for appeal	Up to 1.2.7	40 - 120
Attend appeal before adjudicator (fast track)	1.2.8	20
Attend appeal before adjudicator (substantive)	1.2.8	up to 80
Apply to leave to IAT	1.2.11	20
Attend IAT	1.2.12	20
Consider and apply for legal aid to appeal to Court of Appeal against IAT decision	1.2.12	up to 20
Upgrades	1.2.14	10 - 20

Personal Injury

Criminal Injuries Compensation Authority

1.1.5 The initial two hour costs limit should normally be sufficient to provide the client with advice and assistance, up to and including consideration of and advice on the CICA decision.

1.1.7.1 An extension of about **10 units (1 hour)** should normally suffice to cover the work involved in seeking a review. There may also be disbursements to cover additional medical evidence, although in the event of a subsequent appeal to the Panel the CICA may carry out its own inspection of the injury. Extensions for Panel appeals will be carefully considered having regard to the previous decisions by the claims officer and on review but an extension of about **10 units (1 hour)** should normally suffice. In addition, the prospects of success must justify the expenditure. An extension should not be granted for a review or subsequent appeal if the solicitor considers that the award is appropriate and should be accepted.

Motor Insurers Bureau

1.3.3.1 Where the MIB investigates a claim under the untraced driver agreement, it will be responsible for obtaining evidence, including medical evidence. Therefore, unless there is to be an **appeal**, when the solicitor may need **1-2 hours (10-20 units)** to enable him/her to incur disbursements to obtain additional evidence, all the advice on the claim and its outcome should normally be provided within the **initial two hour limit**.

Road Traffic Accidents

1.2.4 Under the **initial two-hour limit**, the solicitor should normally be able to take instructions, provide initial advice (including liability for costs and the statutory charge) confirmed in writing, write to the insurance company to check if liability is disputed, and submit the application for legal aid.

1.2.5.1 In the majority of road traffic cases, it is not necessary to obtain a copy of the police report before applying for legal aid. The client may have been a passenger, or it may be clear from the circumstances of the accident that there are good prospects of proving liability. However, a police report is necessary before advice on liability can be given, an extension of **4 units (24 minutes)** is usually considered sufficient to obtain and to consider the report. The fee for the report may come from the initial limit, or from an extension if this can be justified on the basis of work already done.

Medical Negligence

1.7.2 Within the **two hour initial limit** the solicitor

should normally be able to take instructions, provide initial advice as to the law, procedure, costs and statutory charge, and apply for legal aid.

1.7.3.1 Medical negligence claims usually involve complex medical issues and difficult questions of causation. Neither disclosure of medical records, nor the obtaining of medical reports, would normally be dealt with under green form.

1.7.3.2 If the application for legal aid was refused, it might be reasonable to grant an extension for the purpose of preparing an appeal. The usual extension would be for **5 units (30 minutes)**. In exceptional cases, solicitors may be able to justify an additional **5-10 units (30-60 minutes)** if specific research is necessary, e.g. to find literature to support a causal connection between a birth defect and the handling of the birth.

Tripping Cases

1.8.2 Under the **initial two-hour limit**, the solicitor should be able to take instructions, provide initial advice (including liability for costs and the statutory charge) confirmed in writing, write to the Highway Authority to check if liability is disputed, and submit the application for legal aid.

Personal Injury – General

1.9.1.1 An extension to cover the costs of a **professional photographer** in a pavement trip case is unlikely to be justified. It would be reasonable to expect someone from the solicitor's office, the client, a friend or a relative to take photographs. More complex cases, e.g. serious road or industrial accidents, might justify using a professional photographer. This would normally be approved once a legal aid certificate had been issued. However, an extension might be justified if there was a real risk that the evidence to be photographed might disappear. (NFG 2-39)

1.9.2. Expert and medical reports would not normally be sought before obtaining a legal aid certificate. (NFG 2-38)

1.9.3.1 Extensions to cover obtaining and considering **medical reports** would not normally be approved. A medical report could be authorised if the extent of the injury and thus quantum in respect of any proposed proceedings is unclear. However, if the client is acting in person for a claim of less than £1,000 and has good prospects of success, or if liability is not disputed and a medical report is needed to issue proceedings or to reach a settlement without proceedings, an extension of **7 units (42 minutes)** might be justified. (NFG 2-38)

Personal Injury			
Type of case	Reason for extension	Reference	Suggested time (Unit = 6 mins)
CICA	To seek a review or appeal	1.1.7.1	10
MIB	To advice on appeal	1.3.3	10 to 20 + costs of additional evidence
RTA	To obtain and consider police report	1.2.5.1	4 + cost of report
Medical negligence	Appeal against refusal of legal aid with additional time for specific research in exceptional circumstances	1.7.3.2	5 to 15
All PI cases	Appeal against refusal of legal aid	1.9.3.1	7 + medical report cost
All PI cases	To assist in preparation of case for trial (client acting in person)	1.9.4.1	10 to 20

Contract

1.6.1 Where the client is intending to pursue the matter himself or the information is required to pursue an application for legal aid, and the report is required to enable the solicitor to fully advise the client, a short

status report may be reasonable with a limit of **24 minutes (four units)**, plus the costs of the disbursement provided the value of the claim justifies the expenditure.

Contract			
Type of case	Reason for extension	Paragraph reference	Suggested time (Unit = 6 mins)
All	Applying for a status report on Defendants' means	1.6	4 units

Criminal

1.2.1 Completion of an **application for criminal legal aid** will normally take **18-30 minutes (3-5 units)**.

1.2.5.1 Appeals – Where counsel/solicitor advocate advises favourably, allow **3 units (18 minutes)** for an **application for legal aid** for purpose of an appeal where the green form has been properly used up.

1.2.5.2 Where the defendant did not have legal aid in the magistrates' court he is likely to require an advice on the prospects of an appeal. It may take **1-3 hours (10-30 units)** to prepare the instructions to counsel/solicitor advocate.

1.2.6.2 Further opinion on appeal – Where there is further evidence or the solicitor can point to some defect in the earlier opinion or proceedings, then an extension may be justified for a further opinion, regardless of when the first opinion was obtained. Allow up to **3 hours, (30 units)**, for the preparation of the instructions to counsel/solicitor advocate.

1.2.6.3 Where the magistrates' court has misdirected itself on a point of law and an application for Case Stated is necessary or where an application for Judicial Review is anticipated, **30 minutes (5 units)** should be

allowed for a legal aid application.

1.4.5.1 Miscarriages of justice – These cases will often involve novel or unusual kinds of evidence. Some investigation may be necessary on behalf of the convicted defendant before any application is made including further forensic testing, the obtaining of witness statements and counsel's opinion. It may be necessary to allow more than **10 hours (100 units)** (depending on the individual circumstances of each of these cases).

1.4.6.1 Complaints against the police – The only time a separate green form should be signed is where the nature of the complaint raises a serious and proper issue which cannot be dealt with within the context of the general criminal advice being given. If the Police Complaints Authority does become involved then the solicitor may need to see his client again to discuss obtaining photographs, section 9 statements, tapes of interviews (depending on the nature of the complaint) in order to assist the client further. In these circumstances it may be that up to **an hour (up to 10 units)** may be required for further assistance.

Criminal		
Reason for extension	Reference	Suggested time (Unit = 6 mins)
An application for criminal legal aid to magistrates' court	1.2.1	3 - 5
An application for legal aid to Crown Court	1.2.5.2	3
An application for civil legal aid for Case Stated or Judicial Review	1.2..6.3	5
Preparation of brief to counsel to advise on appeal	1.2.6.2	up to 30
Representations to the Home Secretary re. tariff	1.4.4.1	up to 30
Preparation of case to petition to Home Secretary/ independent authority on grounds of miscarriage of justice	1.4.5.1	up to 100
Further enquiries for complaints against the Police	1.4.6.1	up to 10

Employment

Advice on General Employment Matters

- 1.1.6** The **initial 2 hour costs limit** should normally be sufficient to enable the solicitor to provide the client with the necessary advice upon the relevant legal issues and, if appropriate, submitting an application to an Industrial Tribunal or an application for legal aid.
- 1.1.7.1** Where the application relates to potential litigation in the Courts an extension will not generally be granted to obtain an Opinion of Counsel. The matter should be dealt with by applying for legal aid at the earliest opportunity. Where there is no potential litigation in exceptional cases it may be reasonable to grant up to **2 hours (20 units)** plus disbursements of Counsel's fees, but regard should always be had to the work already undertaken under the green form and the limit reached.

In these exceptional cases, the extension should be sufficient to enable the solicitor to prepare instructions to Counsel, consider the opinion of Counsel and discuss the contents of that opinion with the client.

Unfair Dismissal

- 1.2.5** The solicitor should be able to take instructions, identify potential witnesses, assess the strength of the case and its value, provide initial advice and submit the application form to the Tribunal offices within the **initial limit of 2 hours**.
- 1.2.6.1** It would normally be reasonable to grant an extension of **1-2 hours (10-20 units)** to enable the solicitor to help the client in the preparation of a case

for unfair dismissal and to give advice upon the Tribunal procedure.

- 1.2.7.1** The **procedure** before the Tribunal can vary and become longer if the case is more difficult. A greater extension may then be justified. For example, the Tribunal may order further and better particulars, interrogatories, inspection and discovery of documents. The application may be weak and the Tribunal may list it for a pre-hearing review. Where the solicitor is involved in more work as a result of these additional stages to the proceedings he may be able to justify an extension of **3-5 hours (30-50 units)**.
- 1.2.7.2** The case itself may be **complex** or involve **substantial documentation**. The solicitor has complex legal issues to consider and substantial documentation. In these kinds of cases the solicitor may be able to justify an extension of **3-6 hours (30-60 units)**.
- 1.2.7.3** There are very exceptional cases which involve highly complex and novel legal issues where intensive research of the law may be necessary and/or require consideration of exceptionally large volumes of documentation which may justify an extension of say **10-12 hours (100-120 units)**.
- 1.2.9.1** It would normally be inappropriate to grant an extension to obtain an Opinion of Counsel. Advice on an unfair dismissal claim should be within the competence of an experienced solicitor. The client can be advised to lodge the application and await the response of the employer. There may be exceptional cases, for example where a difficult point of construction arises, or complex legal issues of liability and quantum, and which may justify the involvement

of Counsel at an early stage. In these exceptional cases an extension of **2 hours (20 units)** plus disbursements by way of Counsel's fees could be justified.

Redundancy

- 1.3.4.1** It would normally be reasonable to grant an extension of **1 hour (10 units)** to enable the solicitor to help the client in the preparation of the case and to give advice upon the Tribunal procedure. This should enable the solicitor to help the client to deal with a redundancy case.

Wrongful Dismissal

- 1.4.5** The **initial 2 hour limit** should be sufficient to enable the solicitor to take full instructions as to the circumstances of dismissal, explain the difference between wrongful dismissal and unfair dismissal, provide advice as to the prospects of success and the likely value of the claim, advise on whether the claim should be pursued through the Courts or made to a Tribunal and assist in the preparation of an application for legal aid or the submission of an application to a Tribunal.
- 1.4.6.1** Where the claim for wrongful dismissal is to be made to an Industrial Tribunal it would normally be reasonable to grant an extension of **1-2 hours (10-20 units)** to enable the solicitor to help the client in the preparation of the case and to give advice upon the Tribunal procedure.

Sex Discrimination

- 1.5.4** Within the **initial 2 hour limit**, the solicitor should be able to take his/her client's instructions, provide advice to the client as to the law relating to sex discrimination, the prospects of success in the client's case, the remedies including the amount of compensation and the Tribunal procedure and assist in the completion and submission of the Industrial Tribunal application form I.T.1.
- 1.5.5.1** It would normally be reasonable to grant an extension of **2 hours (20 units)** to enable the solicitor to help the client in the preparation of the case and to give advice upon the Tribunal procedure.
- 1.5.5.2** Claims based on sex discrimination sometimes involve complex legal issues and require detailed research of the law. In those cases the questionnaire procedure may need to be considered and implemented by the solicitor. The documentation could be substantial especially in cases where the Tribunal are involved in

considering the evidence of numerous witnesses. In addition, the procedure before the Tribunal may become protracted. For example, the Tribunal may order further and better particulars and interrogatories, leading to the solicitor carrying out additional work.

- 1.5.5.3** Accordingly, in those cases the solicitor may be able to justify an extension of **3 to 6 hours (30-60 units)** to assist in the preparation of the case because of those factors mentioned above.
- 1.5.5.4** There are very exceptional cases which involve highly complex and novel legal issues where intensive research of the law may be necessary and/or require consideration of exceptionally large volumes of documentation. These cases may justify an extension of up to **15 hours (150 units)**.

Racial Discrimination

- 1.6.4** Within the **initial 2 hour limit** the solicitor should be able to take his/her client's instructions, provide advice as to the law relating to racial discrimination, the prospects of success in the client's case, the remedies including the amount of compensation and the Tribunal procedure and assistance in the completion and submission of the Industrial Tribunal application form I.T.1.
- 1.6.5.1** It would normally be reasonable to grant an extension of **2 hours (20 units)** to enable the solicitor to help the client in the preparation of the case and to give advice upon the Tribunal procedure.
- 1.6.5.2** The guidance given in paragraphs 1.5.5.2, 1.5.5.3 and 1.5.5.4 relating to sex discrimination applications applies to racial discrimination applications.

Equal Pay

- 1.7.3** Under the **initial 2 hour limit** the solicitor should be able to take instructions and advise the client on the basic law relating to equal pay, the likelihood of success, the value of the claim, the procedures relating to Industrial Tribunal claims in general and the particular procedures relating to equal pay claims. S/he should also be able to assist in the preparation of the application form I.T.1 to the Industrial Tribunal.
- 1.7.4.1** It would normally be reasonable to grant an extension of **2 hours (20 units)** to enable the solicitor to help the client to prepare the case and to give advice upon the Tribunal procedure.
- 1.7.4.2** The guidance given in paragraphs 1.5.5.2, 1.5.5.3 and 1.5.5.4 relating to sex discrimination applications applies to equal pay cases.

Employment			
Type of case	Reason for extension	Reference	Suggested time (Unit = 6 mins)
Contract of Employment	Counsel's Opinion	1.1.7.1	20
Unfair Dismissal	Preparation of Case	1.2.6.1 1.2.7.1 1.2.7.2 1.2.7.3	10 - 20 30 - 50 30 - 60 100 - 120
Unfair Dismissal	Counsel's Opinion	1.2.9.1	20
Redundancy	Preparation of Case	1.3.4.1	10
Wrongful Dismissal	Preparation of Case	1.4.6.1 1.4.7.1	10 - 20 30 - 120
Sex Discrimination	Preparation of Case	1.5.5.1 1.5.5.3 1.5.5.4	20 30 - 60 up to 150
Sex Discrimination	Counsel's Opinion	1.5.7.1	20
Racial Discrimination	Preparation of Case	1.6.5.1 1.6.5.2	20 20 - 150
Equal Pay	Preparation of Case	1.7.4.1 1.7.4.2	20 20 - 150

Housing

1.2 Possession Proceedings

1.2.1 The **initial two hour limit** should normally be sufficient to take full instructions and to give advice on the type of tenancy, the rights and obligations involved, and any available defence and counterclaims. The solicitor may write to the landlord in an attempt to settle the matter, and/or submit an application for legal aid.

1.2.3 Even if there is no defence to the possession proceedings, the solicitor may still be able to negotiate in relation to the terms of a possession order. The landlord may agree not to pursue arrears of rent, and/or to allow more time for the tenant to vacate the premises. The solicitor may even be able to negotiate terms under which the tenant is allowed to remain under a suspended possession order, provided that rent is paid regularly. An extension of about **10 units (one hour)** may be justified to cover negotiations in these circumstances.

1.2.5 If a landlord is taking **accelerated possession proceedings** to obtain possession of premises let on an **assured shorthold tenancy**, an application for civil legal aid will not be appropriate because there is no court hearing. An extension of up to **20 units (two hours)** should be sufficient to assist the client to put all the relevant issues before the court.

1.2.6 When a solicitor is dealing with **accelerated possession proceedings** and the court orders a hearing, an application for civil legal aid can be made at that stage for the hearing. However, if the court makes a possession order in spite of the tenant's representations, the solicitor may consider that an application for civil legal aid to apply to set aside that

order would be appropriate. An extension of **5 units (30 minutes)** would normally be sufficient to make the application for legal aid.

1.3 Injunctions and Wrongful Evictions

1.3.1 The initial two hour limit should normally be sufficient for solicitors to take full instructions, to write to the landlord and/or the local authority, and/or apply for legal aid. If an injunction is to be sought, an application for legal aid would need to be submitted on an **emergency basis**. It would therefore be unusual for extension applications to be made.

1.3.2 However, an extension of up to **ten units (1 hour)** may be appropriate if negotiations with the landlord would appear likely to be successful in avoiding the need for court proceedings.

1.4 Disrepair

1.4.1 In most cases of disrepair the **initial two hour limit** would normally be sufficient for the solicitor to take full instructions, identify the issues and advise the client as to appropriate remedies. Full instructions would include details of the property, the tenancy, the disrepair, losses caused by the disrepair and any health problems suffered by the family. Advice would be given on possible proceedings, and/or negotiations with the Environmental Health Department, and/or with the landlord to ensure that the repairs are carried out.

1.4.2 If a civil legal aid certificate is unlikely to be granted, because for example, the claim is to be conducted under the small claims procedure, an extension of **about 10 units** may be necessary to cover a full letter before action and notice of disrepair to the landlord.

- 1.4.3** Once it becomes clear that a remedy based on disrepair will be sought in the county court, an application for civil legal aid should be submitted normally within the initial limit. However in some circumstances, an extension of **about 5 units** may be justified if a notice of disrepair and a full letter before action were dealt with under the green form. Because the solicitor is able to provide details of the disrepair, it would not normally be necessary to obtain an expert's report from an environmental health officer or from a surveyor to support the application.
- 1.4.5** When a solicitor is giving advice and assistance in relation to an Environmental Health Act case, an extension to cover an **expert's report** may be appropriate. Fees for a report may range from between **£150 and £300**. The amount that can be justified will depend upon the particular expert's services, travelling costs and the scarcity of experts. In the magistrates court, the client will be acting in person, and the solicitor may also have to obtain a medical report, advise on the drafting of the information to the magistrates, obtain a schedule of works and correspond with the landlord. The client will have to be advised as to court procedure and the remedies available. Further extensions of between **2 to 4 hours (20-40 units)** plus disbursements may be justified to enable the solicitor to undertake all these steps.
- 1.5 Homelessness**
- 1.5.1** The **initial two hour limit** should normally be sufficient to take full instructions, identify the issues and advise the client as to any appropriate action. The solicitor may contact the housing officer dealing with the matter, in order to obtain full details and reasons for decisions. In some cases, negotiations may be appropriate. The solicitor may enter into correspondence with the housing authority to set out the client's case. An extension of up to **10 units** may be appropriate to pursue these negotiations.
- 1.5.2** Further extensions may be justified if there is a long delay between the notification of homelessness to the local housing authority and their decision in writing, and negotiations and investigations continue during this period. A delay in the making of this decision would probably indicate difficulties and the solicitor may need to obtain copies of all the information available to the housing authority, and to consider this information with the client. An extension of up to **20 units (2 hours)** may be justified in these circumstances.
- 1.5.3** If the decision of the housing authority is that there is no duty to provide accommodation, the solicitor will have to consider the reasons given in the s.64 letter, and the information in the housing authority file, in order to decide whether or not an application for judicial review should be made. If there is an internal appeal system this must be followed before any proceedings are commenced. A further extension of up to **20 units (2 hours)** may be justified to advise and assist a client in relation to an internal appeal. If the internal appeal is unsuccessful or considered to be inappropriate, a further extension of **5 units (30 minutes)** may be justified to submit an application for legal aid.
- 1.6 Advice in Relation to a Lease or Notice of Assured Shorthold Tenancy**
- 1.6.1** The **initial two hour limit** should normally be sufficient for instructions to be taken, and advice given on the terms and conditions of the lease or tenancy agreement.
- 1.7 Mortgage Repossession**
- 1.7.1** The **initial two hour limit** should normally be sufficient for instructions to be taken and advice given about the prospects of resisting an application for possession. The solicitor will have to consider with the client whether or not there is any likelihood of the arrears being cleared within the remaining term of the mortgage.
- 1.7.4** Because mortgage repossession proceedings may develop in a number of different ways, the amount of extension(s) that would be justified will vary. An extension of up to **15 units** may be justified to negotiate with the mortgagee to avoid an order for immediate possession. The work to be done would depend on the amount of the arrears – if they were substantial a more careful analysis of the client's financial circumstances and likely future circumstances, as against the time left to run on the mortgage, would need to be undertaken. If the solicitor then has to assist the client in dealing with court proceedings a further extension of up to **10 units** may be justified.
- 1.7.5** Even if the client was unsuccessful at court and a possession order was made, the solicitor might be able to assist further by advising on an **application to suspend the warrant of execution**. This would give the client more time in which to arrange alternative accommodation. An extension of up to 10 units might be justified in these circumstances. It could also be justified in cases where there was a change in the borrower's circumstances and agreed payments were not maintained, or if the mortgagee for any other reason sought to enforce a suspended possession order.
- 1.8 Arrears of Rent**
- 1.8.1** The **initial two hour limit** should normally be sufficient for the solicitor to take full instructions and advise as to possible defence and action to be taken. If proceedings have been issued in respect of a sum over £3,000 or for a lesser sum together with a claim for possession, and there is a defence, an application for civil legal aid would normally be made within the initial limit. The tenant may have a counterclaim in respect of the costs of repairs, or the amount of rent claimed may be incorrect. If other issues are involved, further extensions appropriate for those issues may be justified.
- 1.9 Service Charges**
- 1.9.1** The **initial limit** should normally be sufficient for instructions to be taken and advice to be given.

Housing			
Type of case	Reason for extension	Reference	Suggested time (Unit = 6 mins)
Possession proceedings	Negotiations to avoid an order\the enforcement of an order	1.2.3	10
	To assist re. accelerated proceedings	1.2.5	up to 20
	To apply for legal aid	1.2.6	5
Wrongful eviction	Negotiations to settle	1.3.2	10
Disrepair	Proceedings in the magistrates' court	1.4.5	up to about 40 plus an expert's report £150 - £300 and other disbursements
	Cases to be dealt with under the small claims procedure	1.4.2	10
	Cases where legal aid will be applicable but notice of disrepair and full letter before action required	1.4.3	5
Homelessness	To pursue negotiations	1.5.1	10
	To obtain and consider the housing authority file	1.5.2	up to 20
	To pursue an internal appeal	1.5.3	up to 20
	To apply for legal aid	1.5.3	5
Mortgage re-possession	To pursue negotiations	1.7.4	15
	To assist re.possession proceedings.	1.7.4	10
	To advise re.suspension of warrant of execution	1.7.5	10

Welfare Benefits

1.1.5 One hour (10 units) is usually sufficient time to take instructions, check any benefit currently paid and provide a written report to the client on entitlement to welfare benefits generally.

1.1.6 Where legal advice on a specific issue or issues is to be given (rather than general advice as to entitlement), the time spent will obviously depend on the issues involved and their complexity. For example, **disability living allowance** has particularly complex conditions of entitlement so the solicitor will sometimes use up to the full **two hour** limit to provide such advice. However, as a general rule, it should normally be possible to deal with all specific issues up to and including lodging (but not preparing for) a review or appeal within the initial **two hour limit**. (see paragraph 1.8 below)

1.8 Reviews and Appeals to the Tribunal

1.8.1 Advice on a welfare benefit appeal constitutes the

same matter as previous welfare benefit advice. The amount which will be justified will depend very much on the legal issues in question and what is at stake for the client. It should normally be possible to advise the client on this aspect (including lodging the review and the appeal) within **two hours** bearing in mind the expertise of the solicitor and the fact that the same legal issues tend to arise.

1.8.2 Remember that the solicitor may not have been asked to advise previously which means this work would be undertaken within the **initial two hour limit** without the need for an extension. An extension will be required if the solicitor has been involved in, for example, applying for the benefit or providing general welfare benefit advice under the green form. The work undertaken within the initial two hour limit must be clear before an extension is authorised.

1.8.3 If an appeal requires an expedited hearing, for example because the client's benefit has been suspended pending

the appeal, the solicitor may need time to negotiate with the tribunal of about **30 minutes (5 units)**.

- 1.8.4** Having lodged the notice of appeal/review, extensions of up to a further **3 hours (30 units)** may be requested to assist the client in preparing for it.

1.10 Appeals to the Social Security Commissioners

- 1.10.1** The solicitor should be able to consider the appeal body's decision, take instructions from the client and submit an appeal to the Social Security

Commissioners in **2-3 hours (20-30 units)**. Up to a further 2 hours (20 units) may be required to respond to any initial response from the DSS.

- 1.12.1** Normally the client will not require further assistance if an appeal is successful. However, sometimes arrears of benefit will be involved and the client will require assistance to recover the monies. Between **30 mins-1 hour (5-10 units)** may be justified in these circumstances.

Welfare Benefits			
Type of case	Reason for extension	Reference	Suggested time (Unit = 6 mins)
Welfare benefit report	N/A – within initial limit	1.1.5	10 units (within initial limit)
Advice on specific issue (inc appeal up to lodging review of appeal)	N/A – within initial limit	1.1.6 and 1.8.1 and 1.8.2	up to 20 units (within initial limit)
Appeal	Negotiate expedited appeal	1.8.3	5 units
Appeal	Preparation for tribunal	1.8.3	up to 30 units
Appeal	Lodge and preparation of appeal to Commissioners	1.10.1	20 - 50 units
Successful appeal	Recover arrears	1.12.1	5 - 10 units

Matrimonial / Family

1.5 Separation Agreements

- 1.5.1** Within the initial limit, the solicitor will normally be expected to take full instructions, advise as to the effect of a separation agreement, and prepare the deed of separation where the terms are agreed between the parties. However, depending on the complexity of the parties finances, an extension in the region of **10 units** may be necessary to cover disclosure and examination of financial documents.

1.1 Matrimonial Cases for the Petitioner

- 1.1.1** Within the **three hour limit**, the solicitor may be expected to:
- Take full instructions about the formalities and history of the marriage, finances and children including names, addresses, telephone numbers, date of marriage, occupations, dates of birth, previous proceedings, matrimonial home, other property, other assets, details of the grounds for divorce.
 - Ask the client about the possibility of reconciliation.
 - Give preliminary advice on the grounds for divorce (or judicial separation), the effects of a decree on status, the court's powers under the Children Act and future arrangements for the children; the income and assets of the family

(including child maintenance and assessment by the Child Support Agency) welfare benefits and matters relating to housing and the matrimonial home.

- Explain about legal aid, costs and the statutory charge.
- Advise as to the procedure for decree proceedings.
- Prepare the petition of divorce (or of judicial separation) and the statement of arrangements for children (if applicable) and send these to the court.
- Following receipt of the acknowledgement of service, advise on applying for directions for trial and preparing the special procedure affidavit.
- Deal with the applications for decree nisi and decree absolute.

- 1.1.2** Complications in the decree proceedings can arise in relation to **service**. This may justify an extension of between 5 and 15 units, and the bailiff or process server's fees, depending on the work to be undertaken. Whether a solicitor should choose to use the court bailiff or a process server depends on the particular circumstances. It is recognised that in some cases, because of difficulties in tracking down the respondent, the court bailiff service may be slow and ineffective and therefore the use of a process server may be justified. However, normally it would be usual for the

court bailiff to be used first, and only if bailiff service was unsuccessful, would a process server be authorised. It is always open to the solicitor to explain to the area office why instructing a court bailiff would not be worthwhile.

1.2 Matrimonial cases for the Respondent

1.2.1 Within the **two hour limit** the solicitor may be expected to:

- a. Consider the petition and the statement of arrangements for children (if applicable).
- b. Go through the petition with the respondent, taking full instructions and advising on: the grounds of divorce or judicial separation; the effects of a decree on status; the court's powers under the Children Act and future arrangements for the children; the income and assets of the family (including child maintenance and assessment by the Child Support Agency), welfare benefits, matters relating to housing and the matrimonial home.
- c. Assist in the completion of the acknowledgement of service and send it to the court.
- d. Advise the respondent on the progress of the divorce until the pronouncement of the decree absolute.

1.2.4.2 The solicitor may advise that, if a marriage has broken down, defending proceedings can be a waste of both time and money. However, it is often possible to negotiate a compromise, by undefended cross decrees (both parties divorce each other), or by some revision of the allegations to remove contentious issues from the petition, or by withdrawal of the petition and proceeding on the cross-petition of the respondent. An extension of about **10 units (1 hour)** may be needed to avoid defended decree proceedings.

Matrimonial/Family Cases Generally

1.4.2.1 In some cases clients seek outline matrimonial advice from a solicitor, to assess their options before deciding exactly what to do. Covering all the ground involved in giving this general advice may take up to an hour. Clients may return some weeks or months later and give specific instructions, e.g. to commence divorce proceedings. That first hour of the initial limit is effectively wasted because the advice given was, of necessity, general. An extension of **10 units (1 hour)** would replace the time used for the initial general interview.

1.4.2.2 Decree Proceedings may involve more time than is allowed by the initial limit because, for example, there is a change of circumstances and a petition or statement of arrangements has to be amended. Another example would be where a special procedure application has to be resubmitted following queries by the District Judge. An extension of between **5 and**

10 units (30 minutes to 1 hour) may be necessary in such circumstances.

1.4.2.3 When advising a client in connection with a divorce or judicial separation, a situation may arise where advice may have to be given in relation to **injunction proceedings**. An extension of about **10 units (1 hour)** would be necessary to take instructions, give advice and complete legal aid forms.

1.4.2.4 Problems may arise over contact. An extension may be needed to try to reach agreement, by way of correspondence, with the solicitors on the other side. If both parties agree, the matter would probably be referred to an approved conciliation service, before application for legal aid to take the matter to court. Each case will be different, and extensions of between **10 and 15 units** plus the standard conciliation fee would normally be appropriate. If it is clear that the problems cannot be solved by negotiation, an application for civil legal aid would be more appropriate than extensions in excess of 20 units (2 hours).

1.4.2.5 Within matrimonial proceedings, one party may wish to **remove the child from the jurisdiction** for a holiday. The issue may be dealt with by consent, possibly involving correspondence between solicitors, obtaining undertakings and lodging them with the court. An extension of up to **10 units** may be appropriate.

1.4.2.6 If **financial matters** can be settled by consent, even if there are debts and negative equity, an extension of up to **15 units** may be justified.

1.4.2.9 It would be unusual for a total time in excess of 4½ hours (**45 units**) to be justified in respect of divorce/judicial separation proceedings, child maintenance and welfare benefits advice. However if **urgent advice on financial matters** is necessary, it may justify an extension of up to **10 units (1 hour)**.

1.3 Nullity

1.3.1 Within the **initial limit**, the solicitor may be expected to take full instructions. He will advise as to the law, the prospects of success, the effects of a decree on the status and financial matters. He will then prepare and send the relevant forms to the Board to apply for legal aid.

1.6 Child Support Agency

1.6.1 If a client needs advice about the Child Support Agency (CSA) as a free-standing matter, and not as part of decree proceedings, the solicitor may normally be expected to be able to take full instructions and advise well within the **initial limit**. This advice may be to a parent seeking to obtain maintenance, or to challenge an assessment, or to deal with enforcement. It should only take about half an hour to give general advice about child maintenance and assessment and/or enforcement by the CSA. An **additional half hour (5 units)** might be necessary if the assessment is to

be calculated. However, the solicitor will not need to undertake standard form filling, unless there is a legal element. The physical or mental disability of the client alone would not justify the undertaking of standard form filling by the solicitor.

- 1.6.2 If there is a dispute as to parentage, and the alleged father wishes to appeal under s.20 of the Child Support Act 1991, the solicitor would normally be expected to take full instructions, provide advice and apply for civil legal aid within the **initial limit**.
- 1.6.3 A mother seeking to establish parentage may be advised to take proceedings under **s.27 of the Child Support Act**. However, such a declaration is only recognised in respect of proceedings under that Act. Solicitors may advise that an application for declaration of parentage under the Family Law Act 1986 should be made and would normally be expected to take full instructions, advise and apply for legal aid within the **initial limit**.
- 1.6.4.1 If a client needs advice about the Child Support Agency (CSA) as a free-standing matter, and not as part of decree proceedings, the solicitor should be able to take instructions and advise within the **initial two hour limit**. This advice may be given to a parent seeking to obtain maintenance, or to challenge an assessment, or to deal with enforcement. It would probably take about **half an hour (5 units)** to give general advice about child maintenance and assessment and/or enforcement by the CSA. An **additional half hour** might be necessary if the assessment is to be calculated. However, the solicitor will not need to undertake standard form filling, unless there is a legal element. The physical or mental disability of the client alone would not justify the undertaking of standard form filling by the solicitor.

1.7 Wills in Family Matters

- 1.7.1 Advice and assistance in making a will (where available) justifies the signing of a fresh green form. Within the **initial two hour limit**, the solicitor would normally be expected to be able to advise the client as to the law, take full instructions, deal with the drafting and arrange for the signing and witnessing of the will.

1.8 Children Act Matters

- 1.8.6 If it is clear that only a court order will assist, then the **initial limit** will cover taking full instructions and applying for legal aid. However, if it appears that the matter could be settled between the parties, the solicitor will take full instructions and enter into correspondence with the other party or their solicitors. This correspondence may involve both telephone calls and letters. It may also result in the parties being referred to a recognised conciliation service.
- 1.8.7 It may be that, even after the initial limit has been

used up, agreement cannot be achieved or that negotiated arrangements break down. An extension of **5 units** should be sufficient to prepare and submit an application for legal aid. If the solicitor feels that further time can be justified for negotiation on the basis that the prospects of an agreement are good, then up to an additional **10 units** might be justified. However, if after a total time of three hours and a referral to conciliation, agreement has not been reached, further extensions would be difficult to justify except for applying for civil legal aid.

- 1.8.8 Civil legal aid may be refused for **uncontested applications** under the Children Act. For example, a mother may agree that her child should live with a relative and that a residence order should be made so that the relative can have parental responsibility. It would probably be possible to take instructions and give advice and assistance within the initial limit, although an extension of up to **10 units** may sometimes be justified if time has been spent applying unsuccessfully for civil legal aid or if statements are required for the use of the court.

1.9 Injunctions and Protection Orders

- 1.9.1 As with Children Act matters, the need for advice on possible injunction proceedings may be given as a free-standing issue, or it may arise within the context of matrimonial or other family proceedings. For example, a client may have signed a green form to cover undefended decree proceedings, and incidents may take place which require him/her to be advised about protection from violence. If there is an existing certificate, taking instructions, giving advice and applying for an amendment may require an extension of **5**, or in exceptional cases, **10 units**.

1.10 Proposed Care Proceedings

- 1.10.4.1 If there are to be case conferences before the issue of public law Children Act proceedings, extensions may be needed to cover preparation for, travelling to and attendance at the case conferences. The amount of time required for preparation will depend upon the history and the issues. An extension of **10 units together with 20-30 units** for the case conference would usually be sufficient.

1.12 Inheritance (Provision for Family and Dependants) Act 1975 Claims

- 1.12.1 Within the **initial limit**, the solicitor would normally be expected to be able to take instructions, advise as to whether or not there may be a claim, enter into initial correspondence and apply for legal aid.
- 1.12.2.1 As a general rule, in all cases where the initial limit has been exhausted and solicitors are awaiting a decision upon an application for legal aid, an extension would not be justified. However, in

exceptional cases, where it appeared that settlement was a real possibility, an extension of up to **15 units** might be justified to continue negotiations with the other side. However, extensions should not be granted to continue fruitless negotiations. If proceedings are inevitable, work should be done under a legal aid certificate rather than under green form.

1.13 Cohabitees

1.13.1.1 Remedies available to co-habitees are fairly limited.

The initial limit will have been used to take instructions, to advise on possible proceedings under **s.30 of the Law of Property Act, s.17 of the Married Women's Property Act** or the Children Act, if there are children of the relationship, and to begin negotiations to try and resolve the matter. Each case is different, but an extension of up to **15 units** would probably be reasonable to settle matters, if they are likely to be settled without an application to the court.

Matrimonial / Family			
Type of case	Reason for extension	Reference	Suggested time (Unit = 6 mins)
Separation Agreement	Disclosure and examination of financial documents	1.5.1	up to 10
Matrimonial Petitioner/ Respondent Decree Proceedings.	A need for detailed advice in relation to welfare benefits and/or child maintenance		5 - 15
Matrimonial Petitioner/ Respondent Decree Proceedings.	Previous use of time for 'outline' matrimonial advice	1.4.2.1	5 - 10
Matrimonial Petitioner/ Respondent Decree Proceedings.	A need to file a supplemental or amended petition or to deal with other complications in relation to the decree proceedings, e.g. in relation to service or to deal with queries raised by the District Judge	1.1.2 and 1.4.2.2	5 - 15 and bailiff/process server's fees
Matrimonial Pet./Resp. Decree Proceedings.	To deal with urgent financial matters	1.4.2.9	up to 10
Matrimonial Pet./Resp. Decree Proceedings.	To deal with financial matters by consent	1.4.2.6	5 - 15
Matrimonial Pet./Resp. Decree Proceedings.	Negotiations to avoid defended decree proceedings	1.2.4.2	up to 10
Matrimonial Pet./Resp. Decree Proceedings.	To advise in relation to possible injunction proceedings	1.4.2.3 and 1.9.1	up to 10
Matrimonial Pet./Resp. Decree Proceedings. Free-standing Children Act.	Referral to recognised conciliation service	1.4.2.4	the amount of the referral fee and costs
Children Act Matters both free-standing and within decree proceedings	Need to continue negotiations to achieve agreement between the parties, e.g. in relation to contact, residence or removal from jurisdiction	1.4.2.4.and 1.8.7	up to 10
	To prepare statements in uncontested applications	1.8.8	up to 10
Children Act Public Law	To prepare for and attend case conferences (where proceedings are envisaged but not yet issued)	1.10.4.1	up to 10 for prep and from 20 to 30 for the con. plus travelling time
All civil cases e.g. Inheritance Act	To continue negotiations in order to avoid proceedings, e.g. co-habitees in dispute about property	1.12.2.1 1.13.1.1	up to 15

Debt

1.2 Creditor Pursuit

1.2.8 If there is more than one legal aid application to be completed, the solicitor may obtain an extension of **5 units (½ hour)** in respect of each additional application.

1.2.9.1 There may be any number of elements in the case which cause the solicitor to spend a greater amount of time at the initial interview. Where the solicitor has to advise the client on a very large number of debts or the legal issues involved are complex, it may be appropriate to grant an extension.

1.2.10.1 Normally, it would be reasonable to grant an extension of **1 hour (10 units)** to enable the solicitor to try to settle the matter and reach agreement on instalment payments. The financial limit would not normally be extended further.

1.2.16.1 Civil legal aid is unlikely to be granted to enable a client to apply to be made bankrupt. It would normally be reasonable to extend the green form for **1 hour (10 units)** to enable a solicitor to provide the necessary advice to the client upon the preparation and completion of the petition and Statement of Affairs and the affidavit in support. Form filling is only to be remunerated where it has a legal element and therefore it is reasonable for the solicitor to undertake that work. The Statement of Affairs, which is required to be filed in support of the petition, is primarily concerned with factual information. This can be provided by the debtor personally and is unlikely to require the assistance of a solicitor in the completion of the statement.

1.1 Debt Recovery

1.1.7.1 If there is more than one legal aid application to be completed the solicitor should normally be able to assist in preparing/submitted the additional application(s), using an extension of **5 units (30 minutes)** in respect of each additional application.

1.1.7.2 If the application for legal aid was refused it might be reasonable to grant an extension of **5 units (30 minutes)** to enable the solicitor to assist the client in the preparation of an appeal to the Area Committee.

1.3 Setting Aside a Statutory Demand

1.3.2 The solicitor should be able to advise as to the Demand and the prospects of setting it aside, the procedure and an application for legal aid within the **initial 2 hour limit**.

1.3.3.1 It would be most unusual to grant an extension in relating to setting aside a statutory demand. It may be reasonable to grant an extension of **5 units (30 minutes)** solely to enable the solicitor to assist the client in the preparation of an appeal to the Area Committee where legal aid has been refused.

1.4 Attachment of Earnings

1.4.3.1 It would be most unusual to grant an extension in respect of an Attachment of Earnings application. Where an application for legal aid has been refused it may be reasonable to grant an extension of **5 units (30 minutes)** to enable the solicitor to assist the client in an appeal to the Area Committee.

Debt			
Type of case	Reason for extension	Reference	Suggested time (Unit = 6 mins)
Creditor Pursuit	To negotiate settlement and to agree instalment payment	1.2.10.1	10
Creditor Pursuit	'Special factor' cases involving legally complex issues or very large number of debts	1.2.9.1	5 - 10
Creditor Pursuit, Bankruptcy	Assistance in preparation of Petition, Statement of Affairs and Affidavit in support	1.2.16.1	10
Debt Recovery, Creditor Pursuit	Additional application for legal aid	1.1.7.1 1.2.8	5
Debt Recovery, Set Aside Statutory Demand, Attachment of Earnings	Appeal against refusal of legal aid	1.1.7.2 1.3.3.1 1.4.3.1	5



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