



Civil Advice and Assistance Reform - Phase 2

Your guide to the changes

May 2007

Introduction

This guide to the civil advice and assistance reforms introduced on 1 May 2007 gives you a summary of the main changes made, as well as detailing how the new system will operate. The guide also gives more guidance on certain elements of the reforms, and is in addition to previously issued guidance on how to complete the new forms.

An earlier version of this guide was issued at our advice and assistance information seminars that we held around Scotland in March and April. We have revised the guide to take into account the questions and issues raised at these sessions, as well as points raised since the reforms were implemented on 1 May. We have also included questions and answers throughout the guide, many of which are based on issues raised at the seminars.

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Section 1

Key points

Most of the changes effective 1 May 2007 are to civil advice and assistance/ABWOR. There are new forms for use in criminal advice and assistance and changes to initial expenditure limits for children's advice and assistance. Our key points summarise the main changes and the flowcharts in the next section will help to explain how the process now operates.

Civil advice and assistance reforms key points

- You can now only use the new red AA/APP/CIV form for all civil advice and assistance applications and the new AA/INC/CIV form for all civil requests for increases in authorised expenditure. Any civil applications or increases made on the previous forms will be returned.
- There are now two types of civil advice and assistance: standard and diagnostic. The new *Category Codes Card* shows whether a matter is diagnostic or standard.
 - **Standard:** Most cases are likely to be standard advice and assistance. This covers most of the work being done by solicitors prior to 1 May 2007. There are particular categories of case - called approved categories - where standard advice and assistance can be given. The new *Category Codes Card* tells you what is covered as standard advice and assistance.
 - **Diagnostic:** Where the work to be done is not an approved standard category, advice and assistance can still be made available by way of a diagnostic interview. The maximum fee that can be paid for a diagnostic interview is £35.

Usually a client can only get a diagnostic interview once during any period of 3 months from the date of an earlier grant and where advice could have been from any solicitor. You can seek the Board's approval to grant diagnostic advice and assistance more than once in a 3-month period or to move from diagnostic to standard advice and assistance.

For diagnostic advice and assistance, there are particular contribution levels that apply. You also cannot seek an increase in authorised expenditure for a diagnostic case.

- There are new levels of initial authorised expenditure for civil advice and assistance:
 - diagnostic advice and assistance is limited to £35
 - standard civil advice and assistance has initial authorised expenditure limits of £95 or £180.
- The minimum fee has been removed from all civil cases granted on or after 1 May 2007.
- **Financial verification:** It is still your responsibility to be satisfied on financial eligibility. You should see documentary evidence of your client's financial circumstances such as a wage slip or a bank statement. You need to include details of this verification on the AA/APP/CIV form and keep a copy of evidence seen on file.

- When filling out the new form please use black ink only and when completing the single white boxes, write in capitals. Use the check boxes and write within the white boxes/space only. Do not send covering letters with the application form unless you require to tell us something that cannot be written on the form.
- *Legal Aid Online* offers you a quicker and easier way of doing advice and assistance work rather than paper. If you are interested in using Legal Aid Online please visit our website www.slab.org.uk or contact us on 0131 240 2013.
- *Use our guidance to help you correctly complete the new forms.* All our guidance on civil advice and assistance reform is available online at www.slab.org.uk
- You cannot use pdf forms, photocopies or your own versions of our forms from 1 May 2007. You must use the new printed forms, or use Legal Aid Online.

Civil advice and assistance applications key points

- Use our guidance including "*How to complete the civil advice and assistance/ ABWOR application form*" to help you correctly complete the new application form.
- Income support, income-based job seeker's allowance, or disregarded benefit payments should not be included as income in Section G of the form.
- If you are requesting our approval to provide standard advice and assistance rather than diagnostic, a higher contribution may be payable by your client.
- When completing the Equality questions at Section H, you give the *Equality Card* to your client, and you complete the form using the answers they give you. Please make sure you write in the answers at the correct question - for example, question 3 about disability can only be answered 1, 2 or 3.

Civil advice and assistance increases key points

- We now expect most increases to be made using templates as they are easier and quicker for solicitors to use. We have almost trebled the number of templates available to cover most types of case, and increased the limits of expenditure for previously available templates.
- To ensure that you get all the benefits from these changes, please read our guidance "*How to complete the increase in authorised expenditure form*" and "*Increases in Authorised Expenditure,*" which is an extract from our Civil Legal Assistance Handbook detailing the increase templates and guidance. You should use this guidance to check that the template you are going to request applies to your client's category of case.

- You should make a copy of the increase form prior to submission, as we will no longer be returning these forms to you with our decision. A letter informing you of our decision will be sent instead.
- You cannot apply for an increase in authorised expenditure for diagnostic advice. You must first obtain Board approval to have the matter considered as standard advice and assistance.
- Where you have not seen documentary evidence of your client's financial circumstances prior to making an increase request, you should now seek this verification and complete Section D of the AA/INC/CIV form.
- If you are applying for a template increase, generally you do not complete Section H of the form, and you do not give the total increase in expenditure you are seeking. (There are a small number of circumstances where you may have to give us information about your case at question 3).
- If you have already been granted a template increase and subsequently wish to request another increase using a template, you complete Section G. However, if you have been granted a template and then wish to subsequently request an additional item that is linked to a template, you complete Section H, as additional items can only be requested at the same time as a template.
- If you had been granted an increase before 1 May 2007, and now wish to use the new templates to request another increase, you do this in the normal way. The new limit of authorised expenditure will be set to the value of the template and any extra work requested, and will not include the previous amount authorised in addition.

Criminal and children's advice and assistance

- There are only a small number of changes to criminal and children's advice and assistance. For information on the main changes see Section 8.
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- Please remember that you do NOT use the children's advice and assistance forms just because the matter involves a child.

Section 2

Flowcharts

The flowcharts in this section will help explain how elements of the new civil advice and system work.

The flowcharts cover:

- Chart 1 - Civil advice and assistance overview
- Chart 2 - Diagnostic advice and assistance (Has your client already received diagnostic advice and assistance from any solicitor on any matter within past 3 months?)
- Chart 3 - Moving from diagnostic to standard advice and assistance
- Chart 4 - Standard advice and assistance - applying for an increase using a template
- Chart 5 - Standard advice and assistance - applying for an increase that does not use a template

Chart 1 - Civil advice and assistance overview

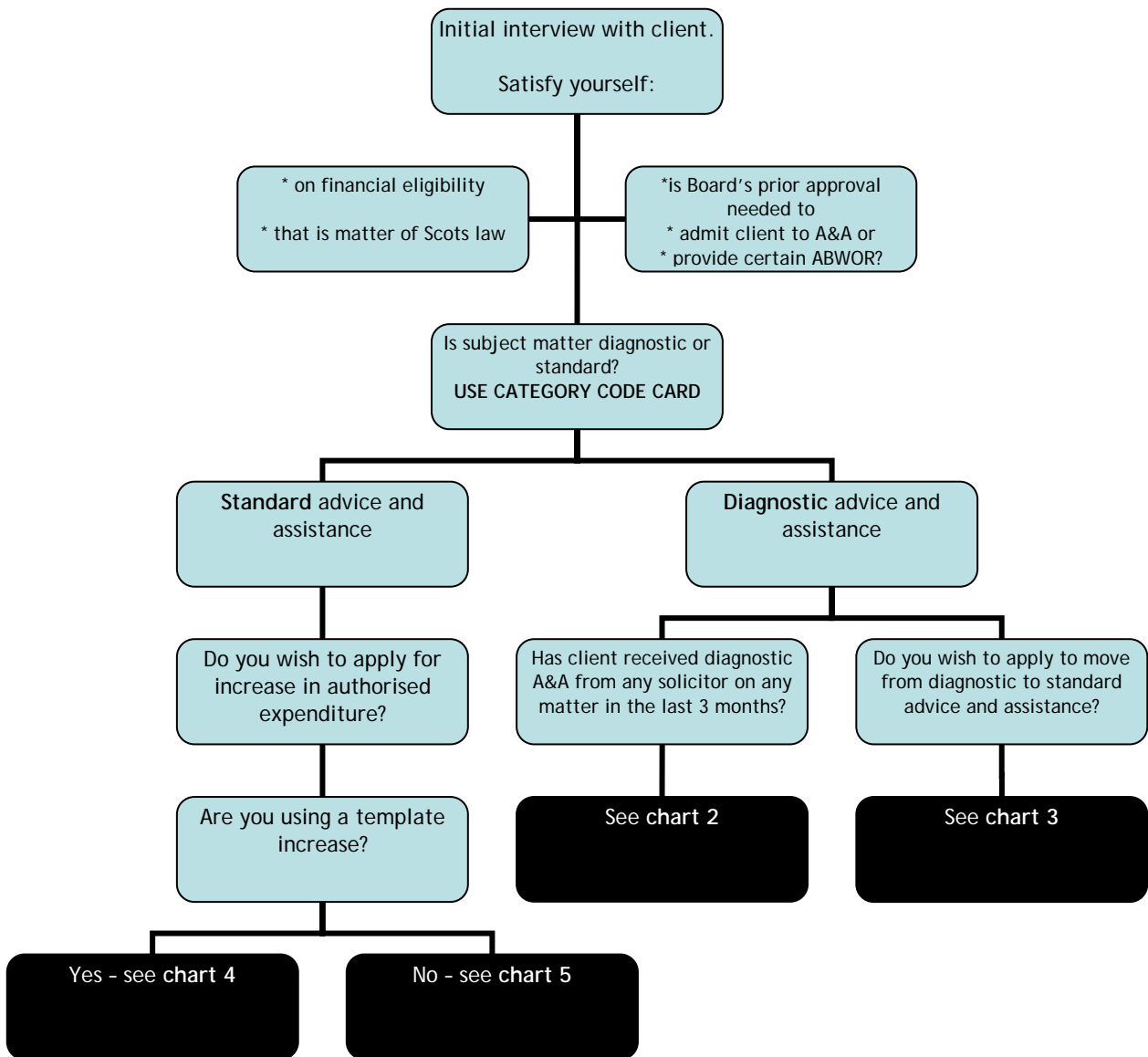


Chart 2 - Diagnostic advice and assistance

Has your client already received diagnostic advice and assistance from any solicitor on any matter within past 3 months?

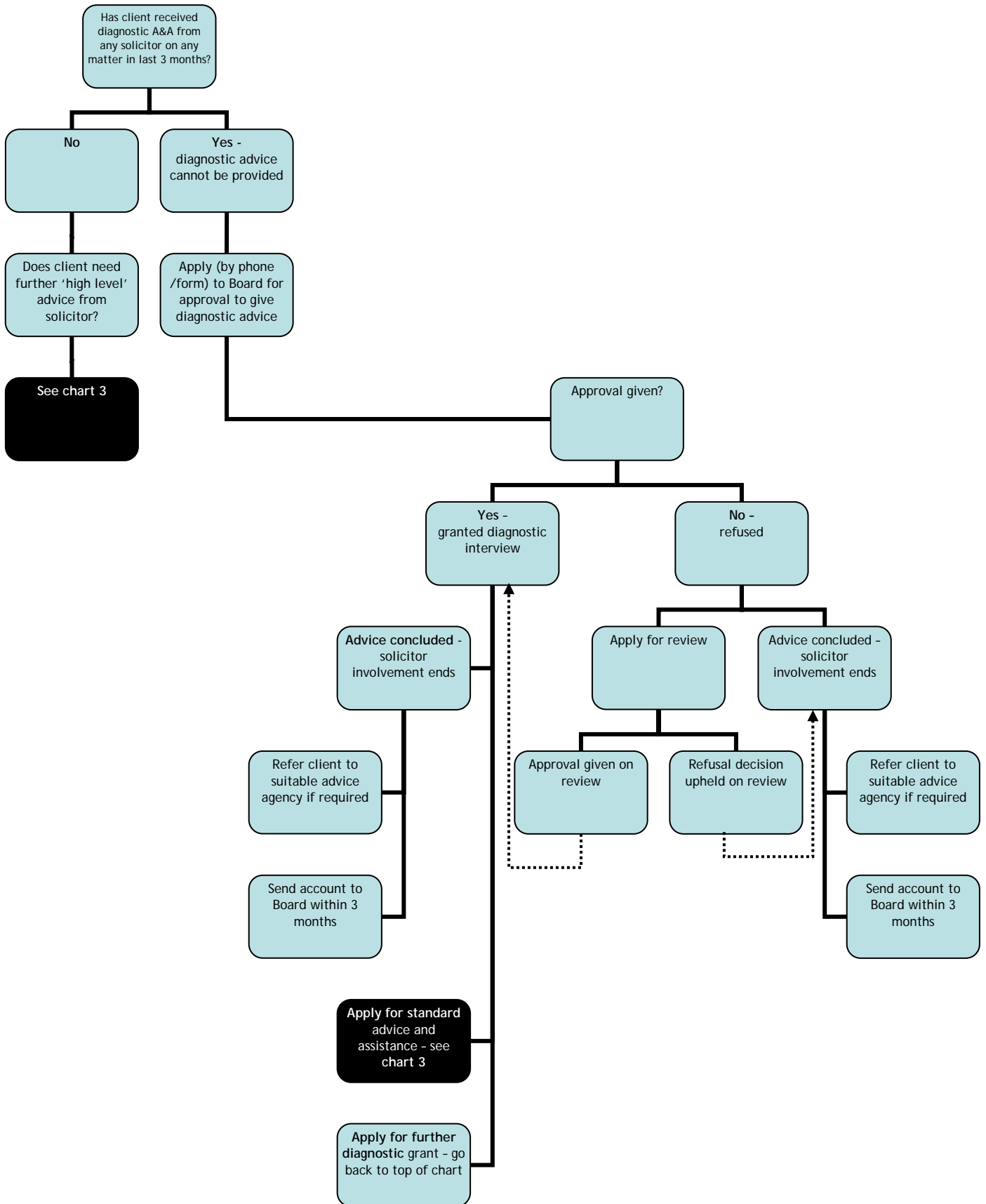


Chart 3 - Moving from diagnostic to standard advice and assistance

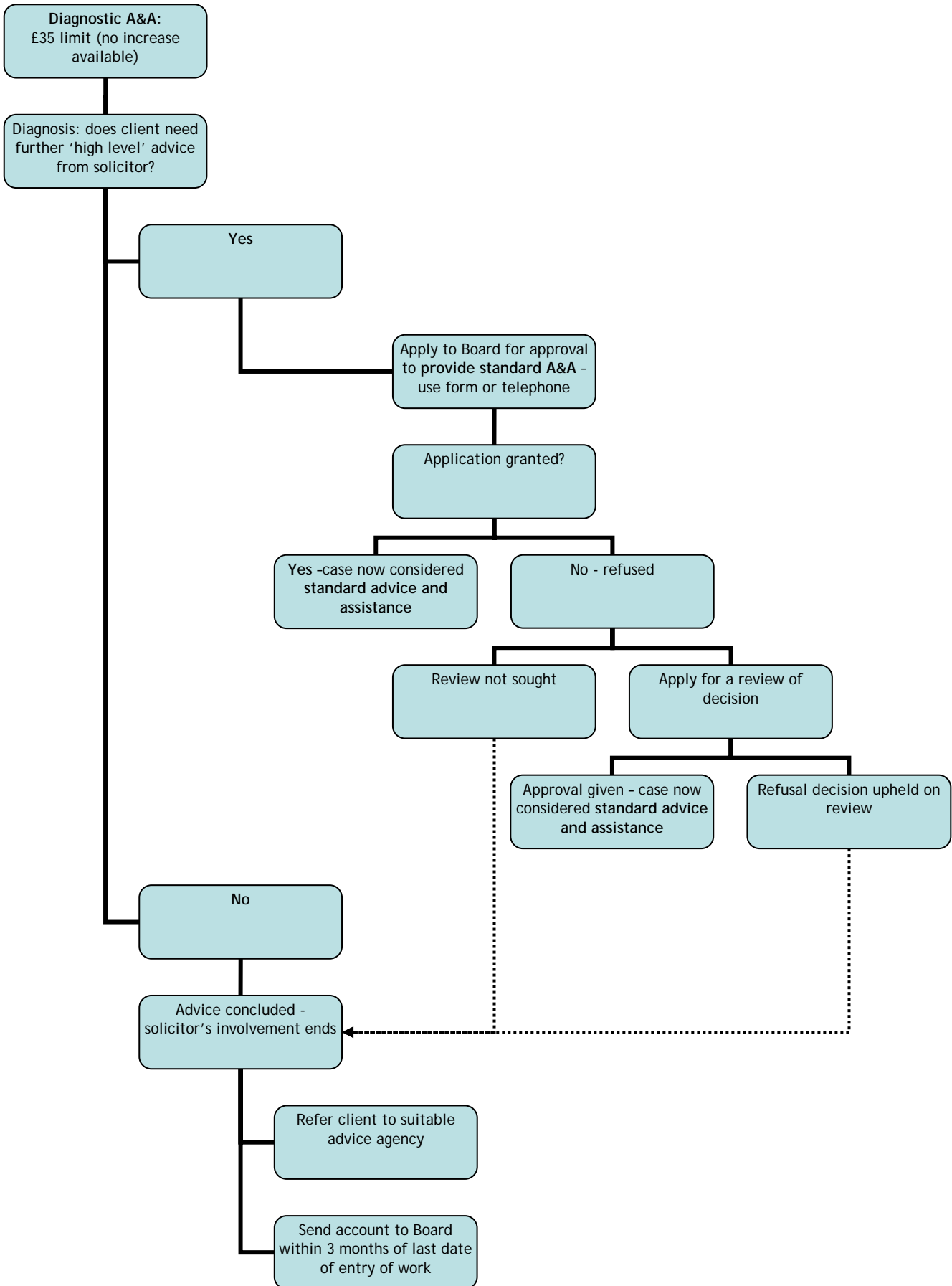


Chart 4 - Standard advice and assistance - applying for an increase using a template

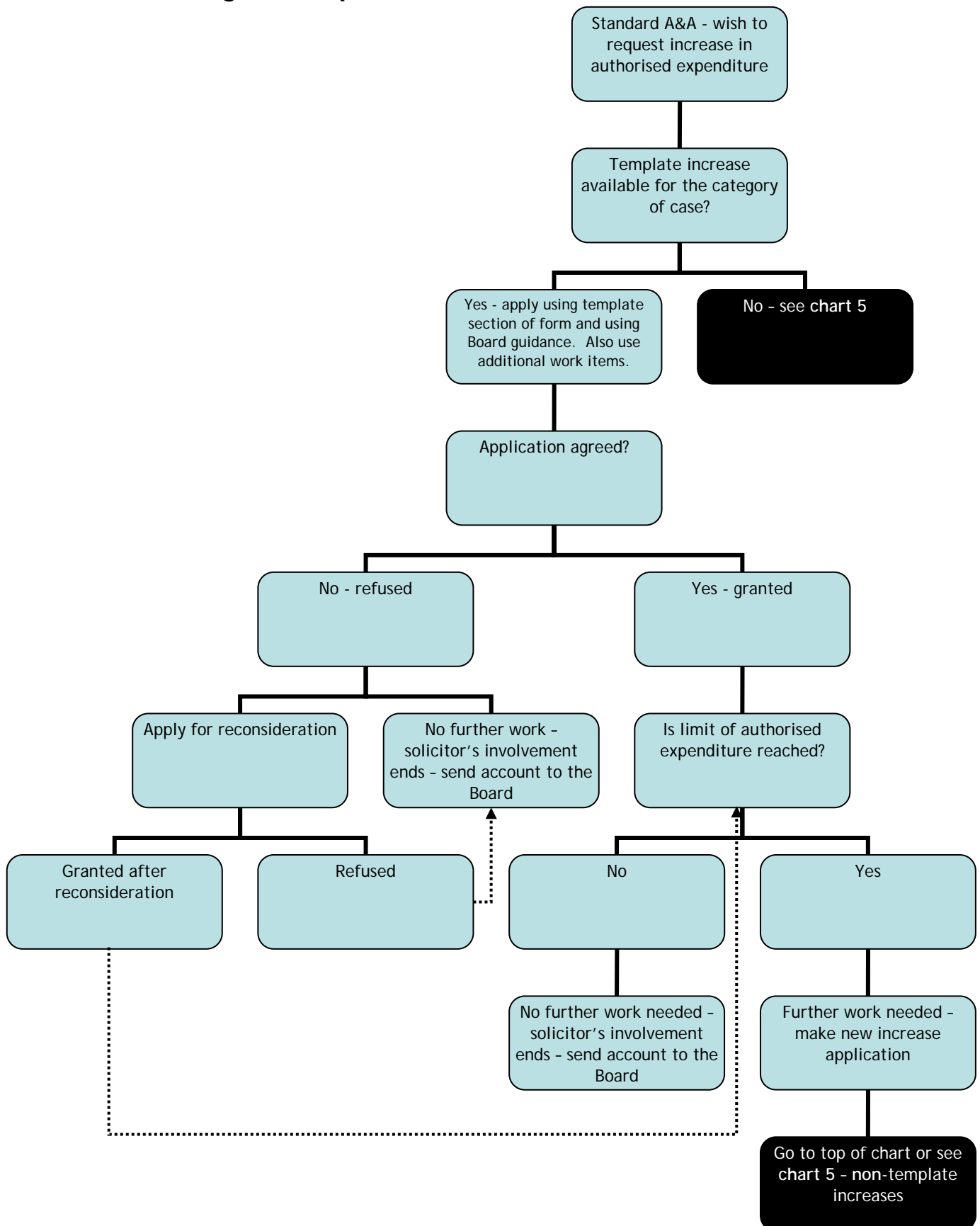
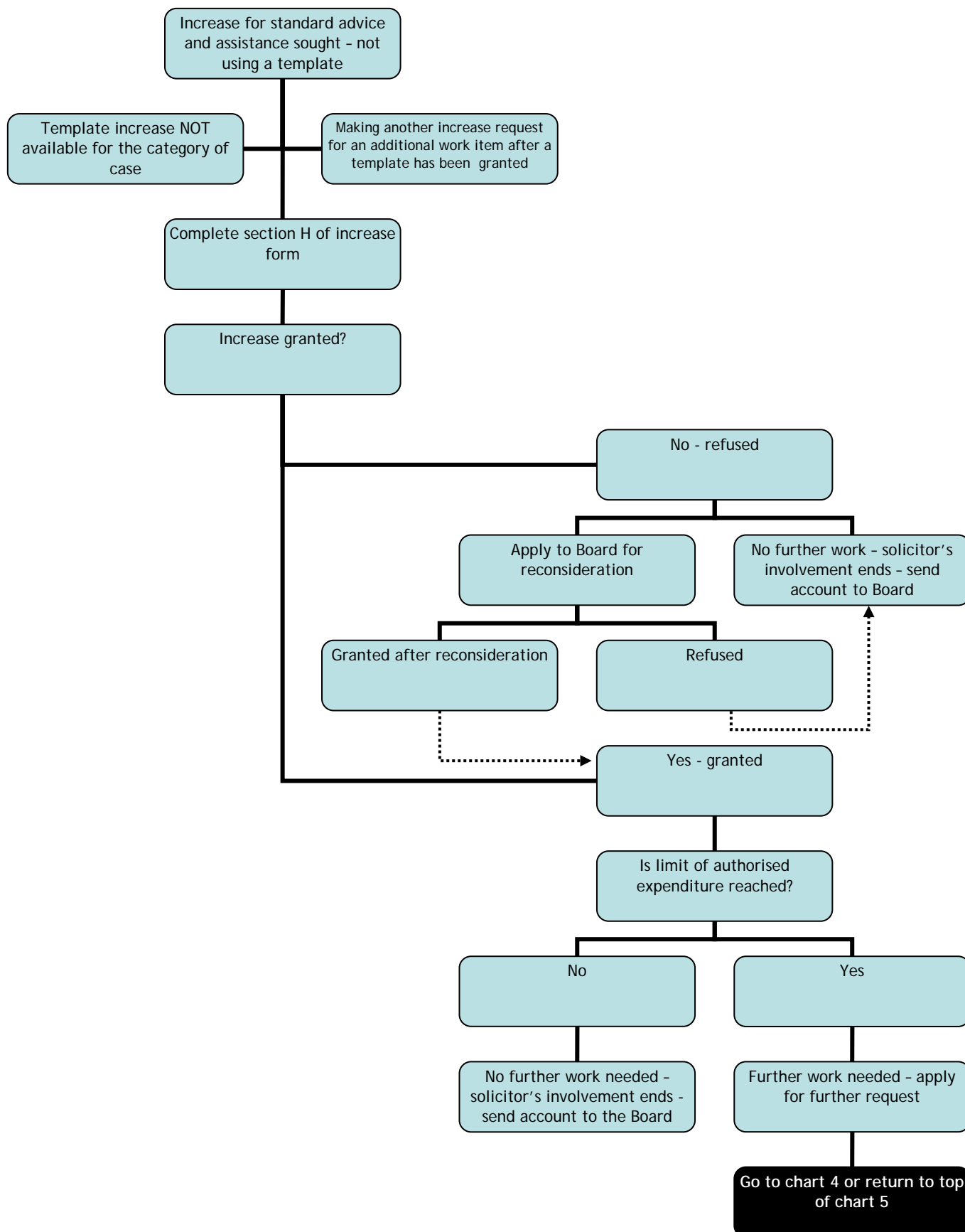


Chart 5 - Standard advice and assistance - applying for an increase that does not use a template



Section 3

Civil advice and assistance reform

This section gives the background to the development of the reform of civil advice and assistance

How the reforms were developed

At the Joint Legal Aid Conference in October 2004, Hugh Henry MSP, then Deputy Minister for Justice, said the Scottish Executive intended to take forward proposals for the reform of civil advice and assistance. The Tripartite Group, who are representatives of the Board, the Law Society of Scotland and the Scottish Executive, developed the proposals.

Civil advice and assistance currently provides help in around 120,000 cases every year, on a wide range of matters. Advice is provided by a large and widespread body of solicitors.

The Tripartite Group's discussions suggested that far-reaching reform of civil advice and assistance was necessary. The aim was to promote access to justice for those who need it, while appropriately balancing fair reward for the profession, retaining high-quality provision, promoting early intervention and securing best value for taxpayers' money.

In December 2004, the Scottish Executive issued, on behalf of the Tripartite Group, a consultation paper, setting out the proposals for the reform of civil advice and assistance. The Board and the Law Society held stakeholder meetings, including some local faculty meetings, during 2005. These meetings, with the consultation responses,

contributed to the final design of the new civil advice and assistance process.

In January 2006, the Board and the Law Society held a series of roadshows around the country to discuss the reforms. The implementation of the reforms was subsequently delayed because of issues with the drafting of the required regulations. However, the roadshow discussions also helped to further shape the procedures needed for the new process. Moreover, solicitors made various suggestions for additional case categories that helped determine the list of categories for standard civil advice and assistance.

Civil advice and assistance and other changes

Civil legal aid was reformed in October 2003, and introduced quality assurance for all civil legal assistance provided by solicitors, both legal aid and advice and assistance. A peer review system for quality assurance is working successfully. The new procedures take account of this development.

For some years we have provided "templates" for increases in authorised expenditure for certain types of advice and assistance case. The templates enable one increase to cover areas of work that may have previously required several requests for increases to be

made. The templates therefore help reduce bureaucracy and make it simpler and easier to request increases. We therefore wanted to see greater use of templates.

The reform of civil advice and assistance should also be seen in the context of our development of Legal Aid Online, which allows legal aid applications and accounts to be sent to us and dealt with electronically. Legal Aid Online helps reduce bureaucracy, speed up processes and supports the reforms.

The Board's project to simplify civil legal assistance has also informed some of the changes being made.

Issues addressed by the reforms

Most of civil advice and assistance reforms now being introduced seek to address the following issues:

- the system of limited authorised expenditure is a significant administrative burden on both the solicitor and the Board. Proper control of spending can be achieved with far less bureaucracy.
- the scope of civil advice and assistance is very broad, covering the application of any aspect of Scots law to the client's circumstances. The advice and assistance system will still enable solicitors to provide help where they are best placed to do so, and be better paid for such high-level advice, but should also recognise that other organisations and agencies might also appropriately provide advice in many circumstances.
- the current arrangement for paying minimum fees was seen as wasteful of public funds, especially when linked with the wide discretion available to the solicitor to make multiple grants of civil advice and assistance on a range of matters.

The key phases of civil advice and assistance reform

Phase 1 - already implemented

- an increase in fee rates for all civil and children's advice and assistance. Fee rates increased by 21% (including the 5% increase in July 2004) in April 2005 applying to fees for work done or outlays incurred on or after 30 April 2005.

Phase 2 - implemented on 1 May 2007

- introduction of specific categories of case where advice from a solicitor is appropriate
- introduction of "diagnostic" advice and assistance by way of a "diagnostic interview"
- removal of the minimum fee for civil advice and assistance
- further extension of templates for increases in authorised expenditure in a wide range of cases.

Phase 3 - no date set for implementation yet

- changes to applicants' financial eligibility limits and contributions for high value cases to more accurately reflect that civil advice and assistance may be given over a long time and be very expensive.

We are still discussing proposals for these changes with the Law Society of Scotland and the Scottish Executive. We intend to consult the profession and others more widely next year on the proposals.

Section 4

Applying for civil advice and assistance

This section covers the new standard and diagnostic advice and assistance. It also details issues to be considered when completing an application such as financial matters.

Overview

Most of the old advice and assistance scheme continues almost unchanged after the 1 May 2007 reforms. The most common type of advice and assistance will be standard advice and assistance.

There are now a number of new features, including the new type of diagnostic civil advice and assistance. These changes are described in more detail in this section.

The flowcharts in the previous section will also help you understand how the new system operates.

Key changes implemented on 1 May 2007:

Standard advice and assistance

Changes to civil advice and assistance will ensure that it focuses on matters on which advice from a solicitor is appropriate. The Board and the Law Society of Scotland, after wide consultation, drew up a list of categories of cases on which advice from a solicitor is appropriate. Where a client has a problem that is listed as a standard matter, you can grant and provide civil advice and assistance just as you would now.

Standard civil advice and assistance has initial limits of £95 or £180, and you can seek increases in authorised expenditure.

Standard advice and assistance may also include ABWOR.

Advice and assistance by way of a “diagnostic interview”

Where the client’s problem is not related to any of the approved categories for standard advice and assistance, you can still make civil

advice and assistance available by way of a diagnostic interview.

Diagnostic advice and assistance is the most basic level and allows you to provide advice and assistance on the application of Scots law to the particular circumstances affecting your client which are not contained in the approved categories or to refer the client to a suitable agency for more help.

The diagnostic interview includes a meeting or meetings between a solicitor and a client (or a person acting on behalf of a client, in accordance with regulation 6) and any work reasonably and necessary following on from a meeting.

The initial limit of authorised expenditure for the provision of a diagnostic interview is £35.

You can apply to the Board to have the matter considered as standard advice and assistance. This is where you think that any of the circumstances affecting your client requires “high-level” advice by a solicitor equivalent to an approved category.

You cannot seek an increase in authorised expenditure for a diagnostic matter. There is a new client contribution scale.

A client can only receive one diagnostic interview during a three-month period. The advice can be on any diagnostic matter from any solicitor. You can apply to the Board to grant a second or further diagnostic interview.

Abolition of the minimum fee for advice and assistance

There is no longer a minimum fee for advice and assistance on a civil matter.

Standard civil advice and assistance approved categories

Most civil advice and assistance cases will be standard advice and assistance, which is broadly similar to the system before reform.

Where a client has a problem in relation to a category in the list below, you can grant and provide standard civil advice and assistance - just as you did prior to reform.

The list of approved categories for standard advice and assistance are below. These are also included in *Category Codes Card*, which you should use to check if the matter is standard or diagnostic.

Following the 2006 and 2007 seminars, a number of further categories were added. These are shown in *italics*.

Family/matrimonial related

- Divorce
- Separation
- Variation
- Contact
- Aliment/Child Support Agency
- Residence
- Adoption (including freeing order for adoption)
- Matrimonial homes
- Child abduction/Hague Convention applications
- Part I, Chapter 1 of Part II, and Part III of the Children (Scotland) Act 1995
- *Co-habitee rights under family law*
- *Civil partnerships*

Other processes

- Interdict (including interdicts under Matrimonial Homes (Family Protection) (Scotland) Act 1981)
- Interdict (to include "other", "matrimonial" and "protection from abuse" interdicts and including non-harassment orders)
- Reparation
- Breach of contract

- Contempt of court (including minutes for failure to obtemper)
- Fatal Accident Inquiry
- Judicial review
- Reduction
- Declarator
- Bankruptcy/petition by debtor
- Implement
- Delivery
- Summary application
- General defence to any action (that is, where a client is in receipt of a writ)
- Criminal Injuries Compensation Authority
- Appeals to courts and tribunals
- Statutory discrimination
- Restoration of driving licence (civil)
- *Anti-social behaviour orders*
- *Sexual offences prevention orders*
- *Proceeds of crime (civil)*

Executry related

- Wills
- Executries

Housing related

- Recovery of heritable property (including eviction and Mortgage Rights (Scotland) Act 2001)
- Conveyancing
- Division and sale
- *Landlord and tenant*
- *Heritable rights*
- *Homelessness*

Social welfare related

- Immigration/asylum
- Mental health
- Adults with incapacity
- *Benefit appeals/reviews*
- Employment
- Education
- *Debt - value £500.00 and above and does not include multiple individual debt repayment plans*
- *Community care - assessment of need, eligibility/charging for services and direct payments.*

How advice categories are classified as standard and possible future changes

The Board, in consultation with the Law Society of Scotland, has set out an extensive list of categories of case that are standard.

Once a category of advice has been approved, it can only be removed from the list with the consent of Scottish Ministers.

Since the legislation enables the Board to add categories to the approved list for standard advice and assistance, we will be able to consider proposals that further categories of advice are added to the list. During the series of 2006 and 2007 seminars, suggestions were made which resulted in additions to the list of categories.

We anticipate that there will be further additions in future based on experience of operating the new system or where changes to the law are introduced. Solicitors who have suggestions for additional categories can make them to the Law Society of Scotland or the Board.

Limits of authorised expenditure

Initial authorised expenditure for cases in the approved categories is £95 or £180. You can use the *Category Codes Card* to identify which limits apply to your client's case.

The higher limit of authorised expenditure applies in relation to a sequestration petition under the Bankruptcy (Scotland) Act 1985 and for preparing an application for civil legal aid where litigation is likely.

Advice on distinct matters

Where you approve an application for advice and assistance in relation to a civil matter, you should now decide whether or not the advice and assistance relates to a "distinct" matter. This is simply a way of describing a significant piece of legal advice which a client would expect to receive from a solicitor.

You can provide civil advice and assistance in connection with these approved matters, without further procedure, in the usual way up to the level of initial authorised expenditure of £95 or £180. You can also apply for an increase in authorised expenditure, which would be mainly using templates.

The list of categories recognises the possibility that you may have to give advice on individual matters such as divorce, reparation, sale of heritable property or the Mental Health Act, all of which are distinct matters.

One application for approved categories to include other reasonably ancillary categories

Where the subject matter to which the advice and assistance relates is a standard advice and assistance category you **only approve one application** for advice and assistance which includes all other standard advice and assistance categories that are “reasonably ancillary” to the advice you are giving.

For example, the primary category code could be DIV (divorce) and other related ancillary related matters could be RES (residence) and INT (interdict).

You are, in the words of section 6(1)(a) of the Act, providing advice to the client “on the application of Scots law to any particular circumstances which have arisen in relation to the person seeking the advice”.

This means that where you give your client advice and assistance on a divorce, the same certificate will include:

- all advice in connection with residence/contact matters, financial provisions, division and sale of heritable property (all approved matters).

Examples of matters that should not be included where you give your client advice and assistance on a divorce include:

- arrears of council tax
- eviction
- housing benefit.

You should not make a separate grant in respect of financial provisions in order to limit the amount payable by your client under the clawback provisions.

Completing the application form

If your client’s case is standard advice and assistance, you do NOT require to answer Section C questions 5 and 6 to explain why standard advice and assistance is to be given. These questions should only be answered for diagnostic cases.

Diagnostic civil advice and assistance

Introducing diagnostic advice and assistance

Where the subject of the civil advice and assistance is not in connection with an approved standard advice and assistance category you could still provide advice and assistance on a matter of Scots law to the client by way of a diagnostic interview.

Whilst a diagnostic interview is likely to be just that, a meeting, it includes:

- a meeting or meetings between a solicitor and a client, or a person acting on behalf of a client in accordance with regulation 6
- any work reasonably and necessarily following on from such a meeting.

You can provide legal advice to your client and if appropriate, refer the client to a suitable advisor for further help.

A client can only receive diagnostic advice and assistance **once in a three-month period**, from *any* solicitor, unless the Board approves a second diagnostic interview.

You cannot request an increase in authorised expenditure under diagnostic advice and assistance.

The minimum fee arrangement for civil advice and assistance cases has now been abolished.

The maximum fee payable for a diagnostic case is £35. This is submitted as a time and line account within 3 months of conclusion of the advice.

Diagnostic categories

The table shows the categories of advice that are diagnostic matters.

This list is included in the *Category Codes Card*, which you should use to identify if a matter is standard or diagnostic.

BEN	Benefits
COM	Complaints
DBTD	Debt - value less than £500 and does not include multiple individual repayment plans
DGOV	Disciplinary proceedings before governor in relation to a prisoner
DISA	Disclosure Scotland Act
DPA	Data Protection Act
ECHR	European Court of Human Rights
EJC	European Judgement Convention
FOI	Freedom of information
HOU	Housing
HRCI	Human Rights Act
LIC	Licensing Act
OTH	Other civil
PRIS	Prison rules
SCCI	Scotland Act
TOA	Transfer of agency - civil cases
WITC	Witness citation - civil

One application

You can only approve one application for advice and assistance whether the client is seeking advice on one matter or a range of matters. Again, you are providing advice to the client "on the application of Scots law to any particular circumstances which have arisen in relation to the person seeking the advice".

The maximum authorised expenditure for a diagnostic interview is £35.

Moving from diagnostic to standard

Having approved and provided advice and assistance by way of a diagnostic interview, you may form the view that the nature of the advice, which is not an approved standard advice and assistance category, should nevertheless be treated as if it were. If so, you can apply to us to give standard advice and assistance.

We can agree, or refuse the application. If we refuse, you can ask us in writing to review our decision.

We will consider each request to move from diagnostic to standard advice and assistance on its own merits. The factors we will take into consideration include:

- local availability of other advice agencies
- the client's ability to understand the case
- if it is in the interests of someone else
- if there are any novel or complex legal issues associated with the case
- the value of any claim or the matters under dispute.

Where your client should pay a contribution towards the costs because of their disposable income, you should enter on the application form the contribution payable under both

diagnostic and standard advice and assistance. Your client will pay the higher standard contribution if the Board approves the move from diagnostic. (See also financial eligibility information later in this section).

Where approval is given to move to standard from diagnostic

If we approve the application:

- standard advice and assistance is effectively substituted for the diagnostic interview
- advice and assistance subject to the initial level of authorised expenditure, whether £95 or £180, is in place from the effective date of the initial grant
- the diagnostic interview is deemed never to have taken place
- the work is paid at the same level and there is no question of any work carried out, exceeding £35 but within the £95 limit, being struck out on the basis that it exceeds the initial authorised limit of expenditure for a diagnostic interview at the time of our determination
- the date of granting advice and assistance is the date that the Board gave approval to make the matter standard, and not the date you signed the form.

Diagnostic advice once every 3 months from any solicitor

A client is not usually entitled to more than one grant of advice and assistance for a diagnostic interview within any **three-month** period following the *approval* for earlier diagnostic advice.

Also, the diagnostic advice and assistance can be for advice from *any* solicitor during the three-month period. You therefore need to check with your client that they have not received diagnostic advice from any other solicitor over the previous three months.

If we have agreed to treat the diagnostic advice and assistance as standard advice and assistance and you proceed accordingly, this is not counted - as we have seen it was standard advice and assistance from its commencement.

Example:

Your client saw another solicitor two months ago about a housing matter and received diagnostic advice and assistance. They are seeking advice from you about benefits.

As this subject matter is a diagnostic matter, and they have previously had diagnostic advice from another solicitor, you cannot make another grant of diagnostic advice and assistance without the Board's approval.

Seeking more than one diagnostic interview

If a client seeks a second or further diagnostic interview within a three-month period, you must obtain our authority. This will only be allowed in exceptional circumstances and on cause shown.

To request Board approval you can:

- make the request at the time of application on the application form
- telephone us.

The new application form at Section C question 6 allows you to explain why a further diagnostic grant of advice and assistance may be appropriate if the client has already received this from you or any other solicitor over the past three months.

If we refuse authority, you can ask us, in writing, to review this decision.

Has the client's situation changed from diagnostic to standard?

It is likely that you may initially grant advice and assistance as a diagnostic matter, and there may then be a time gap until your client returns with a change in their situation, where you may wish to consider the matter as standard advice and assistance.

Before applying to the Board to have the diagnostic matter considered as standard, it is important that you consider what the principal subject matter is for your client's new situation.

It may be that the principal matter is now standard advice and assistance, and that you do not need to seek Board approval to have the initial matter considered as standard.

For example, your client's problem may have reached the stage where an action needs defended or appealed to a court, and you can give standard advice and assistance.

What happens when you cannot provide diagnostic advice

Having provided advice and assistance by way of a diagnostic interview, if there is no basis for you to apply to us to provide standard advice and assistance or if we have refused an application, your involvement ends. You may wish to refer them to another agency.

You should lodge a detailed account within three months of the conclusion of the advice and assistance. Whatever the value of the account, and notwithstanding any further work, no supplementary account can be lodged with us.

Increases in authorised expenditure

You cannot seek an increase in authorised expenditure if your client's case is a diagnostic matter,

If you have had Board approval to have the matter considered as standard advice and assistance, you can seek increases.

Availability of standard or diagnostic advice and assistance

Before providing civil advice and assistance on a matter, whether diagnostic or standard, you must satisfy yourself that it is reasonable to do so, considering the value and importance of the case and the likely cost of providing the advice and assistance. In this section we consider:

- other rights and facilities
- authority to give advice and assistance
- has advice and assistance been granted from any other solicitor
- who grants advice and assistance.

Other rights and facilities

Under the new arrangements, you must still ask your clients to certify that they do not have available *other rights and facilities*, such as legal expenses insurance or trades union cover, making it unnecessary for them to receive advice and assistance or assistance by way of representation.

Where the client cannot certify that this is the case, you need our authority before giving advice and assistance.

The new application forms allow you to explain why a further grant of advice and assistance may be appropriate if the client does have other rights and facilities that might fund the case.

We can allow you to proceed to provide advice and assistance in these circumstances if we consider there is a special reason for doing so. For example, the applicant may be able to give satisfactory reasons, such as conflict of interest or previous unsatisfactory dealings with the solicitor, why they do not wish a solicitor nominated by the other body, such as a motoring organisation or trade union, to help them.

If we refuse authority for the grant of advice and assistance, you can ask us, in writing, to review the decision.

Advice and assistance from another solicitor

Under the previous regulations, you had to apply to us for authority to give civil advice and assistance if the client had received advice and assistance on the same matter from another solicitor.

For standard advice and assistance this remains, and the form, as before, also allows you to explain why a further grant of advice and assistance may be appropriate if the client has already received assistance from another solicitor on the same matter.

We can approve a further grant of advice and assistance if you can show there are reasons for doing so.

If we refuse authority for the grant of advice and assistance, you can ask us, in writing, to review our decision.

For diagnostic advice and assistance, advice can only be provided once in a three-month period from any solicitor. The form also allows you to provide information to seek the Board's approval to provide diagnostic advice and assistance more than once in a three-month period. (See also the previous section).

Who grants advice and assistance?

Just as in the past, in all cases the solicitor continues to grant advice and assistance. However, there are a few times when you must get our prior approval.

The new advice and assistance application form AA/APP/CIV allows you to:

- tell us that you have provided advice and assistance by way of a diagnostic interview or admitted the client to standard advice and assistance, or
- ask for our authority to grant advice and assistance, if:
 - the client has already received advice and assistance (a diagnostic interview and/or standard advice and assistance) about the same matter from another solicitor
 - the client has other rights and facilities that could make it unnecessary for them to receive advice and assistance or ABWOR
- ask for our authority:
 - where, after giving a diagnostic interview you want to give standard advice and assistance, but the case is not in the approved categories
 - where the client has already been given a diagnostic interview from you or another solicitor within the last three months, and you wish to provide further diagnostic advice.

Questions and answers on applying for standard or diagnostic advice and assistance

Standard and diagnostic

a) *What is the difference between diagnostic advice and assistance and standard advice and assistance?*

Both are advice and assistance in terms of Part II of the Act. The only difference is the amount of advice and assistance which can be given and the way in which the Board pays you.

Standard advice and assistance can still be provided for the whole range of legal issues set out in the list of categories of case. It is also available, on application to the Board, where we agree with you that the nature of the advice you are providing to your client is the equivalent of an approved category.

Otherwise all advice and assistance on a matter of Scots law in relation to your client's circumstances at that time, is dealt with within a single grant of advice and assistance in the form of a diagnostic interview.

b) *My client's problem is not on the list of approved categories. What can I do?*

This does not necessarily mean that you cannot give your client advice and assistance. Some of the approved categories are quite specific - for example, divorce, separation and reparation. Other categories are more general, and relate to the specific legal process a client's problem may have reached - for example, summary application, general defence to any action and appeal to court or tribunal.

Therefore, if your client's problem has reached the stage where an action needs to be defended or appealed to a court or tribunal, you can, of course, give them standard advice and assistance under these specific categories.

If the problem is not on the list, and it has not reached a legal procedure stage like this, you can still consider giving them diagnostic advice and assistance to offer brief general advice on the matter, and perhaps refer them to another agency.

c) *The problem my client is seeing me about is not on the list, but I feel it is important enough to get more than a diagnostic grant. How do I apply for authority to do this?*

On the new advice and assistance application form, you can ask for our approval to give standard advice and assistance for the matter. Section C, Question 6 of the application form allows you to explain why you feel we should approve the provision of standard advice and assistance.

When assessing the client's financial eligibility, if they are due to pay a contribution, the correct contribution for both diagnostic and standard advice and assistance should be included at Section G, Questions 4 and 5. If we approve the provision of standard advice and assistance, the client would be liable for the higher contribution level. If we refuse to grant, the client would only be liable for the reduced diagnostic contribution.

In urgent situations, you can telephone us to ask for approval to give standard advice and assistance.

d) *The Board has refused my request to uprate diagnostic advice and*

assistance to standard advice and assistance. Can I appeal against this decision? If so, how do I do this?

We will review a refusal to uprate diagnostic advice and assistance to standard advice and assistance.

You should write to us asking us to review our decision. You should include any additional information in your letter that may not have been included in the application form.

- e) *My client seems to have other rights and facilities that would pay for his case - his trade union has a legal advice scheme. However, I do not feel it right to insist that he can only get advice on this from the union's allocated solicitor. How do I apply to give him advice and assistance on this matter?*

When completing the civil advice and assistance application, you have to tell us at Section C, Question 4 if the applicant has any rights or facilities which might fund the case. If this applies, question 4 also allows you to provide an explanation as to why you feel an application for advice and assistance is appropriate.

You must explain clearly why you do not feel it appropriate to pursue the other source of legal advice. Give us details of any conflicts or any other reasons. For example, there may be a conflict of interest with the solicitor used by the trade union.

- f) *The Board has refused my request to provide advice and assistance because it considers that my client has rights and facilities that would pay for his case. Can I appeal against this decision? If so, how do I do this?*

We will review a refusal to grant advice and assistance when the client has other rights and facilities to pay for the case.

You should write to us asking us to review our decision. You should include any additional information in your letter that may not have been included in the application form.

Standard advice and assistance

- g) *My client has already received advice on a standard advice and assistance matter from another solicitor, but now he wants me to take over the case? Can I grant him advice and assistance now?*

Regulation 13(1) of the Advice and Assistance (Scotland) Regulations 1996 states that more than one solicitor should not give a client advice or assistance about the same matter without our prior approval.

If a client has already received standard advice and assistance on this matter from another solicitor, you need to show this at Section C, Question 7 of the application form. You should explain why you feel a subsequent grant of advice and assistance should be made.

(If your client has previously received diagnostic advice and assistance, different arrangements apply - see question i).

- h) *The Board has refused my request to provide advice and assistance because my client has received advice on this matter from another solicitor. Can I appeal against this decision? If so, how do I do this?*

We will review a refusal to grant advice and assistance when the client has already received advice and assistance on the matter from another solicitor.

You should write to us asking us to review

our decision. You should include any additional information in your letter that may not have been included in the application form.

Diagnostic advice

i) My client has already received a diagnostic grant of advice and assistance in the last three months, but I feel it is appropriate that she receives another diagnostic grant. How do I get the Board's permission for this?

In exceptional circumstances, and if you can show cause, we may allow a second or further diagnostic interview during the three months after the first or any subsequent diagnostic interview.

The three months run from the date of the *approval* of the previous advice and assistance by way of a diagnostic interview. This previous advice may have been from you or any other solicitor.

If you are applying to give a second or subsequent diagnostic interview within three months, show this at Section C, Question 5 of the application form. You should fully explain why you feel a second or subsequent diagnostic interview is appropriate.

j) The Board has refused my request to give another diagnostic grant of advice and assistance. Can I appeal against this decision? If so, how do I do this?
We will review a refusal to give another grant of advice and assistance.

You should write to us asking us to review our decision. You should include any additional information in your letter that may not have been included in the application form.

k) How will the Board decide whether a diagnostic grant will be uplifted to standard advice and assistance?

The Board will consider each case on its own merits, but the factors we will take into consideration include:

- local availability of other advice agencies
- the client's ability to understand the case
- if it is in the interests of someone else
- if there are any novel or complex legal issues associated with the case
- the value of any claim or the matters under dispute.

l) How will the Board decide whether a diagnostic grant on Prison Rules will be uplifted to standard advice and assistance?

Again, the Board will consider each case on its own merits, but the factors we will take into consideration include:

- the nature of the specific legal advice being sought
- if all internal complaints procedures have been used
- if any advice on the issue has been obtained from prison based agencies, for example, social work.

m) If the Board decides to uplift a diagnostic grant to standard advice and assistance, what level of contribution will my client pay?

If the client is eligible to pay a contribution, then only one contribution will need to be paid, either diagnostic or standard.

If applying for the uplift by using the new application form, please ensure that both levels of contribution are entered at Section G questions 4 and 5. If approval is given to uplift to standard advice and assistance, only the higher standard contribution will need to be paid.

n) Do Terms of Engagement letters need to be sent out for diagnostic cases?

The Law Society of Scotland considered this matter last year. Their view was that these letters do not need to be sent out if the matter has been concluded within the grant of diagnostic advice and assistance.

Assessing your client for financial eligibility and contributions

The reforms implemented on 1 May have not made any changes to the financial eligibility tests. Your client's financial eligibility will continue to be assessed on their disposable income in the seven days before applying and on their disposal capital.

The current limits for financial eligibility and clawback are included in the *Keycard 2007*, with the rates that were effective 9 April 2007.

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

On the new application forms, you now show where your client receives a passport benefit (income support or income-based Jobseeker's Allowance) or other form of benefit. You provide these details in Section F on page 3.

However, when completing Section G on financial eligibility on income, if your client receives a passport benefit (income support or income-based Jobseeker's Allowance), or has no income, please use the cross boxes to show Nil income.

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

Financial eligibility verification

Although from 1 May 2007 there are no changes to financial eligibility tests, you need to provide more information on the evidence you have seen to be satisfied your client is financially eligible. This is to ensure that there is evidence that the £20 million of public money spent each year on civil advice and assistance is only funding cases where the client meets the rules set by Parliament.

Evidence of financial circumstances

We would expect the solicitor to see documentary evidence of the client's and where appropriate, any partner's financial position, in the vast majority of cases.

Most clients in civil cases will make an appointment to see the solicitor. When doing so, they should be asked to bring along with them documentary evidence of their capital and income along with the proof of identity required when signing up new clients, whether legally aided or not.

We would recommend therefore that solicitors should see, wherever practicable, the following:

- *For income*
 - where the client is employed, a recent wage slip or bank statement
 - where the client is receiving benefits, an up to date letter of award, benefit book (in the limited cases where payment is made in this way) or a bank statement (which might simply be an ATM receipt showing the credit)
- *For capital*
 - a bank statement and statement/pass book and certificate for savings and/or investments.

Completing the application form to show evidence seen

On the previous AA/APP form, you declared on the form that you had seen documentary evidence of the client's income.

On the new application forms, at Section J Question 3 you now mark the boxes to show whether you have seen documentary evidence of the applicant's income *and capital*. You also then give details of that evidence.

If you have not seen any evidence, you should explain how you were satisfied without any verification that the client was financially eligible. This does not mean we will return the form.

However, we may want to make our own checks about this directly with the client. We also carry out checks with individuals and bodies such as the Department for Work and Pensions and banks to confirm the information about the financial circumstances of clients receiving advice and assistance.

What to do if documentary evidence is not available

We appreciate that in some circumstances, clients may not have documentary evidence available when consulting a solicitor. Where they do not - for example, in an emergency, where they are part of some acrimonious dispute which prevents access to documentation or where they are in custody, you may be satisfied from the limited information available.

However, you should then seek verification from the client, preferably before seeking any increase in authorised expenditure, but always at the earliest opportunity. You should then take a copy of this for your file.

Giving details of evidence seen on the increase form

The increase form AA/INC/CIV includes a question on financial verification which you should complete if you did not give this information on the application form.

We will not refuse to consider an increase where you do not give us details of financial evidence.

However, as with applications, we will be monitoring grants of advice and assistance where no documentary evidence of financial eligibility has been seen. This may help us identify whether solicitors need any further guidance on this matter.

Contributions

Standard advice and assistance cases

Where you grant advice and assistance for standard advice and assistance, where it is for an approved category or we approve moving to standard advice and assistance from a diagnostic case, the financial eligibility assessment and contribution levels are unchanged. Currently contributions range from £7 to £124. You carry out the eligibility test and collect any contribution assessed at this stage, as before.

Diagnostic interview

Where advice is given by way of a diagnostic interview only, a different contribution scale applies. For diagnostic, the maximum contribution any client has to pay is £35.

A sliding scale, based on a simplified version of the structure for approved cases, sets out contribution levels for different bands of disposable income. This contribution payable is less than for standard advice and assistance. The diagnostic scale is included in the *Keycard 2007*, and is shown in the table below.

As with standard advice and assistance, you carry out the eligibility test and collect any contribution assessed at that stage.

Diagnostic advice and assistance client contribution amounts

Diagnostic cases - disposable income range	Maximum contribution
Disposable Income not exceeding £91	No contribution to pay
Exceeding £91 but not exceeding £119	£7
Exceeding £119 but not exceeding £147	£14
Exceeding £147 but not exceeding £175	£21
Exceeding £175 but not exceeding £196	£28
Exceeding £196 but not exceeding £215	£35

(For standard advice and assistance cases under approved categories, please see the *Keycard 2007*.)

Diagnostic advice and assistance where you request standard advice and assistance

Where you are seeking our authority to move from diagnostic to provide standard advice and assistance, you should assess and enter on the application form the contribution due under both diagnostic and standard advice and assistance. You then apply the appropriate contribution depending on the outcome of the application - and only one contribution is payable.

It is important that your client is aware that the contribution they may have to pay if the case is approved as standard advice and assistance instead of diagnostic could be the higher amount. This issue is included in the fifth bullet point of the declaration that the client signs. You may wish to ensure your client understands the difference in contribution to be paid.

Example

Your client's case is a diagnostic matter and their disposable income is £185 per week. Your client's contribution would be £28. However, because of the circumstances of the case, you successfully apply to the Board to have the case considered under standard advice and assistance. Your client's contribution is therefore £98.

Section 5

Forms and guidance

New advice and assistance/ABWOR application forms are in use, supported by guidance.

Overview

The reforms saw the introduction of new advice and assistance application and increase forms. Changes to the forms include those to collect information related to the reformed system.

The introduction of the new forms also saw the Board change to a new paperless computer system. This means that forms are electronically scanned, and what you write is automatically put into our computer system. We expect that our new system will bring a number of benefits to the profession, such as quicker processing. The layout style of the new forms has therefore been updated to enable us to use our new paperless computer system.

We have also issued detailed guidance on how to complete the new forms. This is also available on our website www.slab.org.uk

Changes made to forms

Amongst the changes made to the application form are:

- separate forms now cover civil, criminal and children's work. The children's application and increase forms were introduced in January 2007.
- the application forms are now four pages, but the new layout makes it easier to complete and provides more space at particular questions, whilst enabling us to scan the forms. Also not every question on the application form will be answered as some questions depends on the case circumstances.
- there should be sufficient space on the form so that you do not need to send a covering letter.
- we have made changes compared to the previous application form for some information we collect. Where possible we have reduced the number of questions, such as on applicant's details. In some other sections, we have made it easier to provide the detailed information we require, and to remove the need to send covering letters. For example, there is now appropriate space for the subject matter, and explanations of other rights and facilities as well as the new diagnostic procedures.

- the new forms should make the financial eligibility test easier to conduct, by making it simpler to identify the sources of income and those that should be disregarded.
- we include questions about information that we need to assure us that solicitors have carried out the financial assessment and to check the financial information, such as with the Department for Work and Pensions or the employer.
- we have to collect information to monitor equality of access to legal assistance for different groups, such as ethnic groups and people with disabilities - see below for more.
- we have revised the declaration, and it now covers authority to check details with other bodies, that information can be disclosed for peer review, and that the client understands what they may have to pay.

We have also made changes to the civil advice and assistance increase form - this is detailed in section 6 on increases.

For the civil increase form, to make it easier and simpler for solicitors to request increases, we want to encourage the use of templates. We have therefore increased the form from two to four pages, so that we could include a full list of all templates and additional work items, so that you only have to cross boxes rather than write text about the case. We therefore expect this new form will be faster and less bureaucratic to complete.

Changes to what the Board sends you

With the introduction of our new computer systems, we are making a number of associated changes that means we will no longer return to you the completed forms you submit.

We will no longer be returning the advice and assistance increase form to you. Instead, we will send a letter informing you of our decision. You should therefore take a photocopy for your file of your increase application before submitting the form.

There is a similar change in situations where the Board returns the advice and assistance form to you as it was not fully completed - for example if the solicitor did not sign the application form.

We previously returned the advice and assistance form to you. Now, we will be sending you a letter that explains which information was missing and what should be completed, together with a printed image of the form. You should use the printed image to update the information requested, and then return this to us with a covering letter that includes the applicant's Legal Aid Reference Number.

Equality questions

We are required by law to collect information to monitor equality of access of people who apply or receive the legal advice services paid for from the public funds we manage. This is to help ensure the services paid for by the taxpayer reflect the needs of all of the community. For example, we have a duty under the Race Relations (Amendment) Act 2000 to have due regard, in carrying out our functions, to the need to eliminate unlawful discrimination and promote equality of opportunity and good race relations.

As part of our responsibilities, we need to monitor the ethnic origin and possible disabilities of those who receive advice and assistance. At Section H of the application form, you are asked to collect information from your client.

How to complete the equality questions and use the Equality Card

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

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

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

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

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

To assist answer the questions correctly:

- there are three questions to be answered. Your client does not have to answer any of these questions. If they do not wish to answer, put a cross at question 1.
- Question 2 about ethnic origin has several answers to write in. There are two parts to question 2, part A - where the answer can be 1 to 7 - (and possibly an answer to other) Part B of question 2 can have numbers 10-24 to write in. Part C may possibly be to write in an answer to other.
- Question 3, about disability, has only an answer of 1, 2 or 3.

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

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

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

Only printed forms and Legal Aid Online applications accepted

Please remember that you cannot use pdf forms, photocopies or your own versions of our forms from 1 May 2007. You must use the new printed forms, or use Legal Aid Online.

With this change in forms, we will only be able to deal with forms that are in the supplied printed format or are made using Legal Aid Online.

You should note that we will not be providing “interactive” pdf versions of the new advice and assistance forms, which have previously enabled the forms to be completed on computer.

We also no longer accept photocopied forms or forms produced in your own format such as from your own case management system.

The main reason for this change is that if forms are printed on a normal desktop printer or on a photocopier, the layout will not match that of the printed forms we supply you, and will not be read by our computer systems.

However, by using Legal Aid Online, you can make applications on computer and then send them to us securely through the internet, making it faster and easier for you. Therefore, if you currently use pdf or your own versions of our forms for completion on computer, you will need to move on to Legal Aid Online service - see section 8 for more information.

Guidance

Our Civil Legal Assistance Handbook, available on our website, now includes updated guidance and legislation covering the civil advice and assistance reforms.

We have issued a range of guidance materials to assist you complete the new forms including:

- *How to complete the civil advice and assistance/ ABWOR application form* - containing key points, question by question guidance notes for completing the form and 4 model applications
- *How to complete the increased in authorised expenditure form* - containing key points, question by question guidance notes for completing the form and 3 model applications
- *Increases in authorised expenditure* - an extract from the Civil Legal Assistance Handbook providing increase templates, guidance and limits of authorised expenditure. This document also includes a list showing each template and which category code applies to that template.
- *Category Codes Card* - use this card to identify the correct code to use and to check if a civil advice and assistance subject is standard or diagnostic
- *Equality Card* - you should provide this card to the applicant to enable completion of Section H of the advice and assistance application forms.
- For criminal practitioners - *How to complete the criminal advice and assistance/ ABWOR application form* - containing key points, question by question guidance notes for completing the form and 3 model applications.

The Civil Legal Assistance Handbook and all guidance is available on our website www.slab.org.uk

How to order more printed forms or guidance

You should ensure you maintain an adequate stock of the printed advice and assistance forms. Remember you cannot photocopy the new forms.

Starter packs of forms

If you wish to request another starter pack of the advice and assistance application forms, please contact the Board's communications department on tel 0131 240 1985, or email general@slab.org.uk. We would prefer that you order a further starter pack if you believe you will need more new forms at an early stage.

Ongoing supplies

You can order the new forms for ongoing use in the usual way from our printers, Stewarts. Forms are supplied to you within one working week. An order form for Stewarts was issued to solicitors, and is included with all orders supplied by Stewarts, as well as being available on our website.

To place an order you can call Stewarts on 0131 659 6010 or return the order form by fax or mail (if faxing an order, you do not need to also send as confirmation your order form by mail). When placing an order, you **must** give your firm code and/or practitioner number.

Ordering guidance publications

Copies of Board publications, including advice and assistance guidance, *Category Codes Card*, *Equality Card* or the *Keycard* are available on our website, www.slab.org.uk in the legal profession section.

You can also order printed copies from our Communications Department by calling 0131 240 1985 or email general@slab.org.uk

Section 6

Civil advice and assistance increases

Changes have been made to making requests for increases in authorised expenditure. Now, most increases can be made using a template, which makes it quicker, easier and less bureaucratic for solicitors.

Overview

Although there are no legislative changes or reforms to the process for requesting increases in authorised expenditure, we are making significant improvements to make applying for increases simpler, easier and quicker.

In particular, we have moved to mainly using template increases and encourage solicitors to use these to let you benefit from a simpler, less bureaucratic system. This is also part of our work with the profession to simplify civil legal assistance.

To enable most increase applications being made using templates, we have almost tripled the number of template increases available, increased limits of authorised expenditure for templates previously available, and simplified how to request additional areas of work, such as reports. We have made changes to the civil advice and assistance increase form to make it easier to use template increases and provided new guidance to make it easy for you to use templates.

This section introduces the changes and gives you an overview of our comprehensive guidance issued.

Also, if you were granted an increase before 1 May 2007, you can use the new form to make a subsequent increase request that uses a template. There are some specific points about how these cases are considered that are detailed in this section.

Template increases in authorised expenditure

What are templates?

Templates make it easier and simpler for you to apply for an increase in authorised expenditure. Templates enable you to request a single, substantial increase in authorised expenditure from the outset of the case to allow you to undertake all the work normally needed for the type of case concerned. Because templates bundle together elements of work where you may previously have had to make several requests for increases in expenditure, you do not have to keep making requests to the Board, which makes it simpler and less bureaucratic for you.

The new civil application for increase in authorised expenditure form now details all the templates available. We have published new guidance on the criteria for each template, and what work would be included under a template.

Now, if your case meets the criteria and you are seeking to undertake work as set out in our templates guidance, all you need to do is to put a cross in the appropriate box. For some areas of work, you can now be granted increases of over £2,000. In contrast, before you may have had to make five or more increase requests for individual areas of work to have received the equivalent level of authorised work and expenditure.

For situations where a template is not available, you can make a request for an increase in authorised expenditure by explaining the circumstances of the cases and giving details of the increases sought.

Using templates and the changes made

We first introduced templates in summer 2003. Although our templates make it much easier and simpler for you, over the last few years only a small number of increase requests have been made using templates. For example, in March, for those increase applications where a template was available, just one in six increase requests were made using the template.

Because of the many benefits to the profession in using templates, we want to see most civil advice and assistance increase requests made using them. We have therefore:

- increased the number of templates available from 22 to 59 - almost treble the number previously available
- increased the limits of authorised expenditure in all but one of the previously available templates, with in some cases the limits of expenditure going up by over 50%
- changed the increase form to make it very easy to apply for a template. We have increased the number of pages to make completing the form easier. We have included a list of all current templates and current values, so all you have to do is cross the relevant box. This is in contrast to how previously you may have made five or more requests to reach a similar level of authorised work and expenditure limit.
- made it easy to request additional areas of expenditure such as medical reports
- published completely revised guidance on using templates and how to complete the form.

When using a template it is important to remember that:

- the template increase is not a guarantee of a certain payment for all work done up to the template amount, but only for work

assessed as actually, necessarily and reasonably done, and outlays actually, necessarily and reasonably incurred within the limit of authorised expenditure set by the template. You still need to submit fully detailed accounts showing costs incurred and actual time spent dealing with the case.

- the effective date of a grant of authorised expenditure where an increase has been obtained using a template is the date the Board approved the request.
- you must use our guidance to check that the template applies in your case and that you can confirm the criteria are met. You should also use the table of templates to category codes list (included in *Increases in authorised expenditure* guidance) to ensure you can use the template for the category of case. If you select a template when it does not apply to your type of case as identified by the category code, your request will be rejected.
- You can apply for more than one template at a time, but you should only select one template - the principal one - at Section G Question 1. Any additional templates you wish to request should be made at Section G Question 4.

Templates currently available

For a template increase, all you need to do is put a cross in the relevant box for your selected template, which also confirms you have done certain work under the existing limit of expenditure and that you propose to do the work listed in the template.

From 1 May 2007, the template increases available and their values are set on the increase form and are as follows:

Code	Case category	Cost £
1	Anti-social behaviour orders	£500
2	Asylum	£950
3	Asylum appeals	£1800
	Child abduction - applications under the Hague Convention	
4	○ Streamlined	£500
5	○ Defend	£500
6	○ Appeal	£500
7	Child Support Agency and the Child Support Act 1991 - Appeal	£500
8	Applying for civil legal aid	£500
9	Criminal injuries compensation appeals	£300
	Crofting	
10	○ Resumption of crofting land	£720
11	○ Access rights	£400
12	○ Rights to purchase crofts	£400
13	○ Acquisition by cottar of holding	£350
14	○ Crofting land	£400
15	○ Decrofting applications	£350

Civil advice and assistance reform - phase 2 - Your guide to the changes

Code	Case category	Cost £
16	o Apportionment of common grazings	£500
17	o Succession to crofts	£450
18	o Bad husbandry	£350
19	Curators ad litem	£500
	Divorce, dissolution of civil partnership and family matters	
20	o Family (divorce/dissolution of civil partnership) - financial assets over £50,000, and issues to resolve involving children of the relationship	£2,100
21	o Family (divorce/dissolution of civil partnership) - financial assets over £50,000	£1,800
22	o Family (divorce/dissolution of civil partnership) - financial assets of £50,000 or less and issues to resolve involving children of the relationship	£1,200
23	o Family (divorce/dissolution of civil partnership) - financial assets of £50,000 or less	£800
24	o Contact and residence	£600
	o Minutes of agreement	
25	o Stage 1 - negotiations	£500
26	o Stage 2 - drafting, adjusting, registering	£500
27	o Stage 3 - implementation and enforcement	£500
28	o Adoption	£500
29	o Declarator of parentage or non parentage	£500

Code	Case category	Cost £
30	o Assumption of parental rights or responsibilities	£500
31	o Aliment	£550
	Employment tribunals	
32	o Stage 1 - advice and assistance only	£300
33	o Stage 2 - ABWOR	£1,800
34	European agreement on the transmission of applications for legal aid	£500
35	Failure to obtemper court orders	£500
36	Fatal Accident Inquiries	£500
37	Guardianship order	£500
	Housing	
38	o Housing benefit	£250
39	o Appeal against decision of the Independent Appeal Service	£500
40	o Eviction	£550
41	o Dampness and housing repair claims	£500
	Interdict	
42	o Interdict against abuse	£550
43	o Other interdicts	£500
44	o Breach of interdict	£500
45	Judicial review (including judicial review of Board decisions)	£500
	Mental Health (Care and Treatment)(Scotland) Act 2003	
46	o Increase 1	£1,500
47	o Increase 2	£500

Code	Case category	Cost £
48	Naturalisation as a British citizen	£220
49	Non-harassment orders	£500
50	Payment actions	£500
51	Recovery of heritable property (mortgage rights)	£550
	Reparation	
52	o Personal injuries - claim for damages between £1,500 to £10,000	£750
53	o Personal injuries - claim for damages exceeding £10,000	£1,200
54	o Medical negligence report 1	£1,600
55	o Medical negligence report 2	£780
56	o Medical negligence stage 3	£500
57	Sexual offence prevention order	£500
	Social security	
58	o Department for Work and Pensions decision	£400
59	o Appeal to Social Security Commissioner	£500
60	The space at template 60 is to enable a new template to be used) that is not included on the form. Any new template will be advised by the Board. You cannot currently use this space.	

Additional areas of work

When applying to use a template, you may also wish to request additional areas of work at the same time.

Please note that if you have already been granted a template increase and wish to request additional work items at a later stage, you should complete Section H of the form.

Standard additional work items

Some templates also include standard additional items, such as medical reports, that you may add to the basic template increase up to a set maximum amount. Where these are included, you do not have to give us any additional information about the need for this work before we authorise the increase. You request these items from selecting at Section G question 3. The current list of standard items are:

	Standard additional work	Cost
A	GP medical report	£150
B	Specialist medical report	£350
C	Valuation report	£250
D	Pension splitting report	£300
E	Architect's report	£400
E	Other technical expert's report	£300
G	Police reports	£150
H	Mediation	£400
I	Applying for civil legal aid	£300

Other additional work items

If you ask for a template increase and an increase for:

- additional work included in our guidance but not listed in question 3 of the form
- a standard additional item at a higher cost than is shown in question 3
- another matter covered by a template, as well as the principal one

you should complete Section G, question 4.

For these situations, we need you to give us sufficient information to satisfy us that the work should be covered. You must:

- confirm on the application form that you have already done the work specified in the template as having been done under the initial or existing limit
- give us details of, including the cost of, any additional work you wish to do that is listed in the template.

If you apply for a template increase, you may still ask for further increases for items not covered by the template - you can do this at the same time, or later as a separate increase request by completing Section H.

You should note that if you can only use Section G question 3 or 4 to request standard work items at the time of applying for a template. If you have previously made a template increase and now wish to request these additional items that are only available at the time of applying for a template, you should complete Section H, non-template increases.

Helpful hints on making a template increase

- If you are seeking an increase in authorised expenditure to enable an application for civil legal aid to be made, you do not automatically select template 8. You should consult our guidance on increases in authorised expenditure for your client's type of case that is in the Civil Legal Assistance Handbook (an extract of which was included in the "Increases in authorised expenditure" guidance). For some templates, the work towards applying for a civil legal aid is covered by the template, and for others, particularly family cases, you should select a standard additional work item. It is therefore only a small number of situations where template 8 will be the appropriate way to request an increase for applying for civil legal aid.
- You cannot complete Section G, question 1, template 60 with your own proposed work. This space is only for future templates that are not listed on the form, and can only be used when we have issued guidance about these. Any increase application that uses this space until new templates are introduced will be rejected. If you are seeking an increase for work that is not a template, you should complete Section H.
- If you are applying for a template increase, you should clearly mark the template you are applying for by putting a cross in the box next to the template number.
- If you are not applying for a template increase, you cannot use Section G question 3 or 4 to request standard work items. To request an increase for this work, you must complete Section H.
- Remember that if you are applying for a template increase, by completing Section G, you do NOT normally need to complete Section H. This includes telling us the total increase in expenditure sought at question 4. (In some situations you may use space at

question 3 where you are continuing an answer from the templates section or to explain information that is required for a particular template, as detailed in our guidance).

Non-template increases

How to make an increase request when a template is not available or you making a subsequent request for an additional work item after you have been granted a template increase

In cases where there is not a template increase available and you wish to request an increase in authorised expenditure - our guidance explains most situations - you have to give us details of the background of the case, the work already done, and then detail the work proposed, how much it will cost, and why you need to do the work. You do this in Section H of the form.

You should also use this Section H where you were previously granted a template increase and now wish to make a further request for an additional work item. Additional work items are only available at the time of applying for a template increase.

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

What to do when the template limit is reached

Where you have done work up to the initial authorised expenditure or have reached the limit of authorised expenditure the template allows, you can still apply to us for a further increase.

In considering another increase, we will decide whether a further increase is reasonable, taking into account what you have achieved within the current authorised expenditure, what you might reasonably achieve with a further increase and whether it is reasonable in the circumstances of the case to incur further expense.

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

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

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

How to make increase requests for cases granted before 1 May 2007

For grants made before 1 May 2007, you can use the new increase form to request an increase in authorised expenditure. You also use the new form if you wish to request a further increase to any made before 1 May 2007.

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

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

- you should give us the current expenditure limit at Section F question 2
- the value of the increase will be the amount for the template and any additional items requested. It will **not** include the previous expenditure limit in addition to the template value. This is because we expect that most work previously requested will be the same as some stages of the template. For example, if you had previously been granted an increase of £400 for work on a divorce case, and now wish to request template 22, value £1200, the new increase in authorised expenditure will be £1200.
- in situations where previous increases included authorisation for work that is not included in the scope of the template, you should make another request with the template to cover this work. For example, you may have had authorisation to instruct a specialist expert, which would now be

considered as an additional item at Section G question 3 or 4 of the form. You should now request an increase to cover this work by completing Section G question 3 or 4 after requesting the template increase.

- If you were granted a template increase before 1 May 2007, the value of authorised expenditure will remain the amount previously agreed by the Board. Although from 1 May the value of nearly all templates has increased, we cannot automatically update the authorised expenditure limit to the new values. Therefore, if you now wish to have the limit set to the new value for that template, please submit an increase application for the template you are using.
- If you do not wish to move to using a template for an ongoing case, you can continue to request increases in expenditure by using Section H of the form, which is similar to the previous form.

Points to remember

- Please retain a copy of the increase form for your records, as now we will not be returning the form to you. We will be issuing a letter informing you of our decision instead.
- If your case is diagnostic advice and assistance, you cannot seek an increase in authorised expenditure. You can however request to the Board that the matter be considered as standard advice and assistance. If this is granted, you can then go on to make an increase request.
- If you use Legal Aid Online, you will get a decision on your increase request much faster. Making an increase request online is also simpler and easier to do.

Advice and assistance reference number

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

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

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

Where your application was made before 1 May 2007, the reference number you will have been given will start AA07 and then followed by ten numbers - such as AA07 1234567890. When completing the new increase form, you can therefore delete the "07" after AA from the reference number, and just complete the last 10 numbers so that it is in the new format.

Questions and answers on increases

- o) Are there changes to the procedures for applying for increases in authorised expenditure?*

No - but we encourage you to use templates. If you wish to exceed the initial limit, you apply to us on the new form AA/INC/CIV. (This includes requests to give ABWOR in types of case where you need our authority.)

- p) I'm applying for a template. What do I complete at Section H?*

You do not normally complete Section H if you are applying for a template. (This includes telling us the total increase in expenditure sought at question 4.)

(In some situations you may use space at question 3 where you are continuing an answer from the templates section).

- q) Can I apply for more than one template at a time?*

Yes, but you should only select one template - the principal one - at Section G Question 1. Any additional templates you wish to request should be made at Section G Question 4.

- r) I want to use a template and then request an extra medical report, but it costs more than the standard amount. How do I fill out the form?*

Firstly you need to select the template you plan to use, and using our guidance, see which standard additional items are available, and their values. In this case, if your specialist medical report costs more than the standard amount of £350, you should complete Section G questions 2 and 4 - where you give details of the additional work item and why it costs

more. You should not complete question 3 for the standard item.

- s) I want to request an increase but there is not a template available. How do I apply?*

You should complete Sections A-F of the civil increase form, and then Section H, for non-template increases. It is important that you answer all questions in this section, and give us the total amount sought at question 4.

- t) Can I still make requests for increases by telephone?*

Yes you can request an increase by telephone where the matter is urgent.

If granted, you should then send us a fully completed increase application form for the work requested by telephone. You tell us at Section F question 3 that you had applied by telephone.

- u) My client's case is urgent - can a decision be made more quickly?*

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

Please be realistic that your case is urgent before completing this section. For example, an upcoming appointment with your client is not in itself an acceptable reason to treat the application as urgent.

v) *Will there be any new templates or changes to the template values?*

Yes, we expect to add templates in future, and have allowed for such situations with the space at template 60 at Section G question 1. We will advise you when any new templates are introduced.

Over the last few years, some templates have been added in response to suggestions from the profession. We have also had input from practitioners on how the templates should be structured. We therefore expect that new templates will be identified from your suggestions, as well as changes in legislation and experience of how the increase system is working. We therefore welcome your suggestions for additional templates.

We will also continue to review the limits of authorised expenditure set for templates and standard work items. We recently conducted a review of our increase guidance and existing template values before introducing these revised templates and values. We also therefore welcome your comments and suggestions for possible changes.

Section 7

Accounts and fees

Changes have also been made to accounts matters.

New accounts forms

From 1 May 2007, we have been issuing new versions of our accounts synopsis forms.

We have introduced synopsis forms for civil, criminal and children's advice and assistance. The synopsis forms are generated from our computer systems and are specific to each case.

We will be sending solicitors more information on the new forms, including copies of each of the new style forms and guidance on how to complete them.

Minimum fee

The minimum fee arrangement no longer exists in relation to any case where an application for advice and assistance for a civil matter is granted on or after 1 May 2007.

Where advice and assistance has been given before 1 May 2007 and a minimum fee is claimed, accounts can continue to be submitted after 1 May.

Fee rates and time to lodge account

Fee rates for civil and children's advice and assistance were increased by 21% (including the 5% increase in June 2004) in April 2005. This applies to fees for work done from 30 April 2005.

Standard cases

You have to lodge your account within 12 months of the conclusion of standard advice and assistance.

Diagnostic cases

We will also pay for advice and assistance that extends no further than a diagnostic interview at the new rates, on a time and line basis, up to a maximum of £35.

You must send us a detailed account in support of this claim.

You have to lodge your account within 3 months of the conclusion of advice and assistance by way of a diagnostic interview.

You can only lodge one diagnostic account: no supplementary account is allowed.

Questions and answers on accounts matters

w) *Is there anything different I have to do in lodging an account for standard advice and assistance?*

No.

x) *If I start to provide a diagnostic interview and the Board agrees to allow me to provide standard advice and assistance, do I lodge a diagnostic account?*

No. All the work you have undertaken in connection with the provision of a diagnostic interview becomes part of the standard civil advice and assistance within the standard £95 or £180 initial limits of authorised expenditure and subject to any increase in authorised expenditure. You therefore do not lodge a diagnostic account.

y) *Following provision of advice and assistance by way of a diagnostic interview, how long do I have to lodge an account?*

You have three months from the date of conclusion of the advice and assistance. This is the date on which you give the last piece of what can be termed advice and assistance on a matter of Scots law to your client. This does not include a reminder letter, letter closing file or a letter following a file review asking a client if they wish further advice.

z) *What happens after lodging a diagnostic account, if I provide further advice, or I have missed something out of the account?*

You can only lodge one diagnostic account. In terms of the regulations, the Board will not accept any supplementary account either to include new work in connection with an extended diagnostic interview or to add further items to the account.

aa) *Can I still lodge a minimum fee account for civil advice and assistance where advice given is after 1 May?*

No. The minimum fee provisions no longer exist where an application for advice and assistance is made on or after 1 May 2007.

However, if you gave advice before 1 May and are claiming a minimum fee, these accounts can still be submitted.

Section 8

Legal Aid Online

Legal Aid Online makes applying for advice and assistance simpler and faster. This section has information for solicitors not yet using Legal Aid Online, and information on changes linked to the reforms for current users.

Not using Legal Aid Online yet?

The reforms and change in forms is an ideal opportunity for you to consider using our Legal Aid Online service, where you can make advice and assistance applications, increase requests and send accounts through the internet.

Legal Aid Online is a free, quick, easy and secure way to process legal aid. It is available for advice and assistance applications, increases and accounts. Both solicitors and administration staff can use the system. All you need is access to the internet from your computer.

Many practitioners have seen benefits in using Legal Aid Online. In particular, Legal Aid Online is quicker and easier to use. Over one in seven advice and assistance applications from over 130 firms were being made using Legal Aid Online before the reforms. With Legal Aid Online being quicker and easier than using the new printed forms, we are expecting to see even more advice and assistance work being done online.

We are continuing to develop and improve our Online service based on feedback from the profession. We are also expanding the service - Civil Legal Aid Online will be available shortly.

Benefits to you

By moving to online, you can see a number of benefits including:

- faster processing of applications, increases and accounts
- faster payments
- cut down on paperwork
- more accurate information gathering
- work at times convenient for you
- quicker decisions.

Amongst the features in Advice and Assistance Online that you can benefit from are:

- quick form filling - with pick lists and automatic filling in of previously given information so eliminating duplication of effort
- less errors and delays - as an electronic form can't be sent if there is incomplete or incorrect information
- your administration staff can fill out and process web forms
- immediate - no need to rely on postal services

- you can track progress from initial application to payment with information on all contact and decisions made.

Legal Aid Online makes it easier for you to make applications, and reduces bureaucracy. Some of the items that are input or calculated automatically for you:

- Keycard allowances
- Contributions
- your firm's details and repeat client details
- time and line entries with automatic calculation of fees, linked to the Board's fees tables
- totals by fees, travel, court dues, etc
- all data previously recorded - no re-typing.

You can find out more about Legal Aid Online on our website www.slab.org.uk in the legal profession section.

How to get started with Legal Aid Online

To start using Legal Aid Online, please register your details with us. Registration is free, quick and easy.

We will be in touch to discuss setting you up for our online service. Your move to Legal Aid Online will be supported with help and training to get you up and running.

You can register your details:

- online, by going to the legal profession section of our website and following the links to Legal Aid Online
- or contact our Legal Aid Online team on 0131 240 2013 or online@slab.org.uk

Already using Legal Aid Online?

Using Legal Aid Online under the reformed advice and assistance is now bringing you more benefits, such as making it easier to apply than using the new paper forms. You also get decisions, such as on increase requests, substantially faster than using printed forms.

We have updated Legal Aid Online to reflect the changes being made to advice and assistance. The first phase of changes were in place for 1 May 2007, covering the new application forms and change to introduce standard and diagnostic in civil cases. Further improvements will be made later in May for civil increases and to make Legal Aid Online even easier to use.

We are also now introducing a new Client Mandate Form which must be used (or the printed forms) for all advice and assistance applications made using Legal Aid Online from 1 May 2007.

New Legal Aid Online Client Mandate Form

New application forms for civil and criminal advice and assistance/ ABWOR must be used from 1 May 2007.

Because of the changes to the new forms, such as the client declaration, we are introducing a new Client Mandate Form for Legal Aid Online users. This must be used from 1 May 2007.

The new form is now available in Microsoft Word or print only pdf format on our website. You can use the Word version of the form to pre-print it with your name.

We recommend that you use the Client Mandate Form where you are making an advice and assistance application using Legal Aid Online and are seeing a:

- repeat client or
- new client out of the office where their circumstances are straightforward - such as they receive a passport benefit.

In other situations, you should use the printed advice and assistance application form to ensure you collect all the required information.

Remember that you are responsible for completing the application form and that you should ensure you get all the information required from your client. Therefore even if you are using the new Client Mandate Form, you may wish to refer to the printed advice and assistance form to ensure you collect all necessary information.

Applying for an increase in civil advice and assistance/ABWOR

A new printed form for criminal increases is not yet available. We have also not yet made wide ranging changes to Legal Aid Online for increases in authorised expenditure. Therefore most of the increase application service has not yet changed, but you can use our current service to apply using the new templates in civil advice and assistance.

We have introduced additional templates and revised limits of authorised expenditure in civil advice and assistance. We now expect most increases to be made using templates as they are easier and quicker for solicitors to use.

Using Legal Aid Online to make increase requests is much quicker than using the printed forms. You will not have to wait on postal services to send your form to the Board, and to then get an answer back. Completing the application online is also easier than using paper.

We are currently working on making changes to Legal Aid Online to make template increases as

easy to use as possible - we expect this will be available later in May. Until these changes are made if you wish to make a civil increase application using the new templates:

- for template increases you do not need to give background details on the case, so at the background section, just type in "template"
- in the work done section, you should tick Other, and then tick the template you require. You can click select to see more information on that particular template.

You should refer to our guidance included in "Increases in authorised expenditure" or the new printed form to get this information. It is also important to check that you can apply for the template when work is under a particular Category Code. You can refer to our *Templates and Category Codes* list that was included in *Increases in authorised expenditure* guidance.

- You will be asked to type in the amount of increase requested. You should refer to the guidance or printed form to get the current value of the template. (If you use a previous lower value, we cannot automatically change the value to the new level - you would have to make a second increase request to raise the increase value).

Next changes

We will be contacting Legal Aid Online users about the next changes that will see further improvements to make it easier to use for the new advice and assistance.

Section 9

Criminal and children's advice and assistance

Changes to criminal and children's advice and assistance were also made from 1 May.

Children's advice and assistance

- New children's advice and assistance application and increase forms were issued in December 2006 and are in use.
- From 1 May 2007 the initial limit of authorised expenditure for children's advice and assistance cases (which are made on form AA/APP/CHL) increased from £80 to £95. On the current children's advice and assistance application form, AA/APP/CHL, issued in January 2007, at Section J question 1, the initial limit of authorised expenditure is shown as £80. You should continue to put a cross in this box and we will automatically revise the amount to £95.
- Please also remember that you do not use the children's advice and assistance forms just because the matter involves a child. We are now often receiving the wrong advice and assistance form for issues involving children. You should note that just because you are acting for a child, this does not necessarily mean that you complete the pink children's advice and assistance form.
- The pink children's advice and assistance forms are used when you represent an adult or a child in a matter relating to children's hearings and associated court proceedings (Part II Chapters 2 and 3 of the Children (Scotland) Act 1995). For example, if you are acting for a parent whose child has been referred to a children's hearing, or to the sheriff to establish disputed grounds for referral to a children's hearing, then you would complete the pink children's advice and assistance form on behalf of your adult client.
- If you act for a child in any civil matter (i.e. not a children's hearing matter) you should complete the red civil advice and assistance application form on behalf of your child client. For example, civil cases include situations that involve residence and contact issues, involve an education or reparation matter.

Criminal advice and assistance

- The new green AA/APP/CRIM form must be used for all criminal advice and assistance/ ABWOR intimations from 1 May 2007.
- There are not equivalent changes to criminal advice and assistance/ ABWOR as are being made to civil advice and assistance. For criminal advice and assistance/ABWOR, there are no changes to the initial limits of authorised expenditure, no new types of advice and assistance, and the minimum fee remains.
- **No change yet to criminal increases**
 - We will not issue until late May/ June the new increase form: Application for increase in authorised expenditure for criminal advice and assistance / ABWOR - form AA/INC/CRIM. Until you receive the new criminal increase form, you should **continue to use the existing increase form AA/INC for criminal increases only**. We will advise you when we send you the new increase forms when you should stop using the existing increase form.

Section 10

Who to contact

We welcome any questions you may have about this guidance and how to use the forms. We also welcome your comments on the new forms, and any suggestions for further template increases. Your feedback can assist us identify where improvements could be made and where we could offer additional guidance. Our contact details are:

For questions about:	Name	Telephone number
Any information about the advice and assistance changes and using the new forms	Applications - Advice and assistance -applications department	0131 240 2066
	Civil increases - increases department	0131 240 2064
Legal Aid Online	Diane Ireland, Legal Aid Online	0131 240 2013 or email online@slab.org.uk
Ordering starter packs, <i>Category Codes Card, Equality Card, Keycard</i> , Handbook and guidance publications	Communications Department	0131 240 1985
Ordering ongoing supplies of forms	Stewarts	0131 659 6010
If the firm or address details we have used are incorrect	Notify our Receipts and Payments Department in writing of any changes in address or practitioner details	<i>0131 240 2080</i>

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