

Civil advice and assistance  
and ABWOR



# Increases in authorised expenditure

This document is an extract from the Civil Legal Assistance Handbook, providing increase templates, guidance and limits of authorised expenditure for civil advice and assistance and ABWOR. For the latest Handbook, visit [www.slab.org.uk](http://www.slab.org.uk)

Also included at the end of the document is a list showing each increase template and which Category Code applies to that template.

You should use this with our other guidance to help you correctly complete the application for increase in authorised expenditure for civil advice and assistance / ABWOR form - AA/INC/CIV.

Effective 1 May 2007

## CHAPTER 8

# ADVICE AND ASSISTANCE AND ABWOR – INCREASES IN AUTHORISED EXPENDITURE FOR DIFFERENT TYPES OF CASE

*Note: This entire chapter, including templates, guidance and limits of expenditure, was updated in April 2007. Individual changes are not, therefore, marked.*

This section sets out the information we need to consider requests for increases in authorised expenditure for different types of case.

## Part 1 – templated increases

### 8.1 “Templated” increases

For some types of case, we give “templates” which, if you meet certain criteria, allow us to grant one increase to cover your work without you having to come back to us for further authorisation. Part 1 of this chapter contains all of these templates.

Using the templates will save you time. For a non-templated increase you have to give us details of the work proposed, how much it will cost, the background, and why you need to do the work. For a templated increase, all you need to do is tick boxes showing the case category, and confirming you have done certain work under the existing limit of expenditure and that you propose to do the work listed in the template. For some types of case, you can also use the template for certain additional items of work, such as employment of medical experts.

The templates included in this handbook are:

1. Anti-social behaviour orders (ASBOs)
2. Asylum
3. Asylum appeals
  - Child abduction – applications under the Hague Convention
  4. Streamlined procedure
  5. Applications to defend actions under the Convention
  6. Appeals
7. Child Support Agency and the Child Support Act 1991 – appeal
8. Applying for civil legal aid – where no other template applies
9. Criminal injuries compensation – appeals
  - Crofting
  10. Resumption of crofting land
  11. Access rights
  12. Rights to purchase crofts
  13. Acquisition by cottar of holding
  14. Crofting land
  15. Decrofting applications
  16. Apportionment of common grazings
  17. Succession to crofts
  18. Bad husbandry
19. Curators ad litem
  - Divorce, dissolution of civil partnership and family matters
  20. Family (divorce/dissolution of civil partnership) – financial assets over £50,000, and issues to resolve involving children of the relationship
  21. Family (divorce/dissolution of civil partnership) – financial assets over £50,000
  22. Family (divorce/ dissolution of civil partnership) – financial assets of £50,000 or less and issues to resolve involving children of the relationship

23. Family (divorce/ dissolution of civil partnership) – financial assets of £50,000 or less and no issues to resolve involving children of the relationship
24. Contact and residence
  - . Minutes of agreement
    25. Stage 1 – negotiations
    26. Stage 2 – drafting, adjusting and registering minute of agreement
    27. Stage 3 – implementation and enforcement
28. Adoption
29. Declarator of parentage
30. Assumption of parental rights or responsibilities
31. Aliment
- Employment tribunals
  32. Advice and assistance only – stage 1 template
  33. Stage 2 – ABWOR template
34. European agreement on the transmission of applications for legal aid
35. Failure to obtemper court orders
36. Fatal Accident Inquiries
37. Guardianship
- Housing
  38. Housing benefit
  39. Appeal against decision of the Independent Appeal Service
  40. Eviction
  41. Dampness and housing repair claims
- Interdict
  42. Interdict against abuse
  43. Other interdicts
  44. Breach of interdict
45. Judicial review (including judicial review of Board decisions)  
Mental Health (Care and Treatment) (Scotland) Act 2003
  46. First increase
  47. Second increase
48. Naturalisation as a British citizen
49. Non-harassment orders
50. Payment actions
51. Recovery of heritable property (mortgage rights)
- Reparation
  52. Personal injuries – claim for damages between £1,500 to £10,000
  53. Personal injuries – claim for damages exceeding £10,000
    - . Medical negligence
      54. First report
      55. Second report
      56. Third stage
57. Sexual offence prevention order
- Social security
  58. Department for Work and Pensions decision (or decision by a council for housing or council tax benefit)
  59. Appeal to Social Security Commissioner

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
- we need you to give us sufficient information to satisfy us that the work should be covered.

You must also

- 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 templated 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.

If we grant your request by telephone, you must follow it up with a written request giving the date of the grant and the name of the person granting it.

As with any other increase we grant, the limit we set is the maximum level of expenditure that we have authorised – you will still have to justify the expenditure in your account.

The templates below are numbered as on the form AA/CIV/INC.

## 1. Anti-social behaviour orders (ASBOs)

In applying for an increase under the template, you confirm that under the initial limit

- you have met the client
- you have taken instructions and details of the case.

### Work covered by the template

We will grant an increase to **£500** to cover

- correspondence on behalf of, and meetings with, the applicant
- doing all the work necessary to apply for legal aid.

## 2. Asylum

**In applying for an increase under the template, you confirm that under the existing limit**

- you have met the client
- you have taken instructions about a claim for asylum
- you have advised them on making the claim.

### Work covered by template

We will grant an increase in authorised expenditure to **£950** to cover:

- lengthy meeting with client to take detailed information and statement
- frame statement of evidence form, or help client to complete statement of evidence form
- correspond with Immigration and Nationality Directorate (IND)
- frame statement of additional grounds
- correspond with client about progress
- examine decision of IND
- meet with client to discuss decision, advise on outcome and advise on prospect of appeal if necessary
- pay interpreter.

### Additional work covered by template

<i>Standard additional work item – complete at Section G Question 3</i>	
• <b>B</b> - Instructing an expert medical report, paying the expert and considering the terms of the report.	<b>£350</b>
<i>Additional work item – complete at Section G Question 4</i>	
• We will consider a higher figure where a medical report is likely to exceed £350.	

### 3. Asylum appeals

**In applying for an increase under the template, you confirm that under the existing limit**

- you have taken instructions and framed grounds of appeal.

#### **Work covered by template**

We will grant an increase to **£1,800** if you need to do the following further work:

- meeting your client to finalise and amend witness statement
- attending case management hearing
- framing witness statement
- framing inventory of productions
- framing skeleton arguments, if necessary
- copying productions
- lodging documents
- obtaining evidential materials
- examining evidential materials
- corresponding with client, court and IND
- preparation for hearing
- citing witnesses
- attending and presenting the appeal hearing
- examining the Immigration Judge's determination
- meeting client, advising on outcome and prospects of appeal
- paying interpreter.

### Child abduction – applications under the Hague Convention

#### 4. Streamlined procedure

Regulation 45 of the civil legal aid regulations puts in place streamlined procedures to deal with applications for legal aid made by a person resident outside the UK. The streamlined procedure applies only to cases where

- the person is resident outwith the UK,
- they wish to pursue an action at first instance before the Court of Session, and
- Scottish Ministers certify the application as a convention application.

It does not apply to an application for legal aid to defend such an action.

**In applying for an increase under the template, you confirm that under the existing limit you have**

- obtained instructions on the application

#### **Work covered by template**

We will allow an increase to **£500** to enable you to do all the work necessary to apply for legal aid under the streamlined procedure.

#### 5. Applications to defend actions under the Convention

**In applying for an increase under the template, you confirm that under the existing limit you have**

- met your client
- taken instructions and details of the case

#### **Work covered by template**

We will allow an increase to **£500** to enable you to do all the work necessary to apply for legal aid.

## **6. Appeals**

**In applying for an increase under the template, you confirm that under the existing limit you have**

- taken instructions on the application or appeal and details of the case

We will allow an increase to **£500** to cover applying for legal aid for an appeal. For such an application for legal aid we need –

- an application form signed by the applicant or the solicitor
- a statement from the solicitor and a copy for each opponent
- a copy of the Ministers' certificate, if there was no application for legal aid at first instance.

## **7. Child Support Agency and the Child Support Act 1991 – appeal to the Child Support Commissioner**

**In applying for an increase under the template, you confirm that under the existing limit**

- you have met your client
- you have discussed the possibility of an appeal with them and taken their instructions.

### **Work covered by template**

We will allow an increase to **£500** for the following work

- advising on an appeal to the Commissioners and the Court of Session appeal
- getting statements from the client
- doing all the work necessary to apply for legal aid.

## **8. Applying for civil legal aid – where no other template applies**

**In applying for an increase under the template, you confirm that under the initial limit you have**

- met the client
- taken instructions and details of the case.

### **Work covered by template**

We will allow an increase to **£500** to enable you to do all the work necessary to apply for legal aid.

## **9. Criminal injuries compensation – appeals**

You may make a fresh grant of advice and assistance to cover any work to be carried out on an appeal against a decision of the Criminal Injuries Compensation Authority (CICA).

**In applying for an increase under the template, you confirm that under the initial limit you have**

- met the client
- taken instructions about the review.

### **Work covered by template**

We will grant an increase to **£300** to do the following work:

- considering the terms of the refusal of award
- advising your client about preparing the review application
- advising your client about preparing an appeal to the Criminal Injuries Compensation Appeals Panel, if necessary
- considering what further evidence is needed and advising your client about this
- helping your client get any medical evidence needed.

### Additional work covered by template

<i>Standard additional work item – complete at Section G Question 3</i>	
• <b>B</b> - Reports, including medical reports.	<b>£350</b>
<i>Additional work item – complete at Section G Question 4</i>	
• If the reports will cost more than this, you should give us full details.	

## Crofting

### 10. Resumption of crofting land

**In applying for an increase under the template, you confirm that under the initial limit you have**

- met the client
- taken instructions and details of the case.

#### **Work covered by template**

We will consider if any proposed step in relation to bringing land back into crofting is reasonable. We will grant an increase to **£720** for

- valuations and
- expert survey advice.

### 11. Access rights

**In applying for an increase under the template, you confirm that under the initial limit you have**

- met the client
- taken instructions and details of the case.

#### **Work covered by template**

In an access rights and servitude dispute, we will grant an increase to **£400** for

- examination of titles, where they exist, and
- getting statements or other evidence to support the claim.

### 12. Rights to purchase crofts

**In applying for an increase under the template, you confirm that under the initial limit you have**

- met the client
- taken instructions and details of the case.

#### **Work covered by template**

We will grant an initial increase to **£400** to

- help with rights to purchase crofts and
- deal with applications to the Land Court if necessary.

### 13. Acquisition by cottar of holding

**In applying for an increase under the template, you confirm that under the initial limit you have**

- met the client
- taken instructions and details of the case.

#### **Work covered by template**

We will grant an initial increase to **£350** for investigations into disputes about whether the person on a holding is a cottar or not.

#### **14. Crofting land**

**In applying for an increase under the template, you confirm that under the initial limit you have**

- met the client
- taken instructions and details of the case.

#### **Work covered by template**

We will grant an increase to **£400** for

- investigating whether land is crofting land, where the Crofters Commission has insufficient or no information
- getting evidence from other sources such as neighbours or other people who can speak to the land use over the years.

#### **15. Decrofting applications**

**In applying for an increase under the template, you confirm that under the initial limit you have**

- met the client
- taken instructions and details of the case.

#### **Work covered by template**

We will grant an increase to **£350** for you to

- give general advice on decrofting applications
- give advice on any possible appeal to the Land Court if the Crofters Commission refuses the application.

#### **16. Apportionment of common grazings**

**In applying for an increase under the template, you confirm that under the initial limit you have**

- met the client
- taken instructions and details of the case.

#### **Work covered by template**

We will grant an increase to **£500** for

- discussion and negotiation
- if the issue has to go before the Land Court to be resolved, advice on the appeal and, if necessary, doing all the work necessary to apply for legal aid.

#### **17. Succession to crofts**

**In applying for an increase under the template, you confirm that under the initial limit you have**

- met the client
- taken instructions and details of the case.

#### **Work covered by template**

We will grant an increase to **£450** for

- getting supporting statements and other documentary evidence
- negotiating with other family members to resolve problems.

#### **18. Bad husbandry**

**In applying for an increase under the template, you confirm that under the initial limit you have**

- met the client
- taken instructions and details of the case.

#### **Work covered by template**

We will grant an increase to **£350** for getting the view of an expert in agriculture on whether the standard of care and maintenance was adequate.

## 19. Curators ad litem

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case
- the curator has chosen to enter the process.

### **Work covered by template**

If the curator chooses to enter the process, we will grant an increase to **£500** for you to do all the work necessary to apply for legal aid.

## Divorce, dissolution of civil partnership and family matters

### **20. Family (divorce/dissolution of civil partnership) – financial assets over £50,000, and issues to resolve involving children of the relationship**

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions regarding separation
- it appears that the matrimonial or civil partnership assets are reasonably believed to exceed £50,000, and
- issues about contact with, or residence of, children of the relationship have to be resolved.

### **Work covered by template**

We will grant an increase in authorised expenditure to **£2,100** to cover the following further work:

- investigating matrimonial or civil partnership assets
- considering the issues about contact with, or residence of, the children of the relationship
- negotiating with opponent
- drafting, finalising and registering a minute of agreement.

### **Additional work covered by template**

<i>Standard additional work item – complete at Section G Question 3</i>	
• <b>C</b> - Valuation of the matrimonial or civil partnership home, to include instructing the report, paying half the cost of the valuation and considering the terms of the report.	<b>£250</b>
• <b>D</b> - Where the negotiations involve reaching agreement on pension splitting – instructing a report from an Independent Financial Adviser, paying the IFA and considering the terms of the report.	<b>£300</b>
• <b>H</b> - If it appears the case would be suitable for mediation – half the cost of the mediation.	<b>£400</b>
• <b>I</b> - Applying for civil legal aid	<b>£300</b>
<i>Additional work item – complete at Section G Question 4</i>	
• We will consider a higher figure where the expert reports are likely to cost more than this.	

## 21. Family (divorce/dissolution of civil partnership) – financial assets over £50,000

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions regarding separation
- it appears that the matrimonial or civil partnership assets are reasonably believed to exceed £50,000.

### Work covered under template

We will grant an increase in authorised expenditure to **£1,800** to cover the following further work:

- investigating matrimonial or civil partnership assets
- negotiating with opponent
- drafting, finalising and registering minute of agreement.

### Additional work covered by template

<i>Standard additional work item – complete at Section G Question 3</i>	
• <b>C</b> - Valuation of the matrimonial or civil partnership home, to include instructing the report, paying half the cost of the valuation and considering the terms of the report.	<b>£250</b>
• <b>D</b> - Where the negotiations involve reaching agreement on pension splitting – instructing a report from an Independent Financial Adviser, paying the IFA and considering the terms of the report.	<b>£300</b>
• <b>I</b> - Applying for civil legal aid	<b>£300</b>
<i>Additional work item – complete at Section G Question 4</i>	
• We will consider a higher figure where the expert reports are likely to cost more than this.	

## 22. Family (divorce/ dissolution of civil partnership) – financial assets of £50,000 or less and issues to resolve involving children of the relationship

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions regarding separation
- it appears that the matrimonial or civil partnership assets are £50,000 or less, and
- issues about contact with, or residence of, children of the marriage have to be resolved.

### Work covered by template

We will grant an increase in authorised expenditure to **£1,200** to cover:

- investigating matrimonial assets
- considering the issues about contact with, or residence of, the children of the relationship
- negotiating with opponent
- drafting, finalising and registering a minute of agreement.

### Additional work covered by template

<i>Standard additional work item – complete at Section G Question 3</i>	
• <b>H</b> - If it appears the case would be suitable for mediation – half the cost of the mediation.	<b>£400</b>
• <b>I</b> - Applying for civil legal aid	<b>£300</b>

**23. Family (divorce/ dissolution of civil partnership) – financial assets of £50,000 or less and no issues to resolve involving children of the relationship**

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions about separation and
- it appears that the matrimonial or civil partnership assets are £50,000 or less.

**Work covered by template**

We will grant an increase in authorised expenditure to **£800** to cover:

- investigating matrimonial assets
- negotiating with opponent
- drafting, finalising and registering a minute of agreement.

**Additional work covered by template**

<i>Standard additional work item – complete at Section G Question 3</i>	
• <b>H</b> - If it appears the case would be suitable for mediation – half the cost of the mediation.	<b>£400</b>
• <b>I</b> - Applying for civil legal aid	<b>£300</b>

**24. Contact and residence**

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions about residence, contact, or any other aspect of parental rights or responsibilities
- this was not done as part of a grant of advice and assistance for divorce/dissolution).

**Work covered by template**

We will grant an increase in authorised expenditure to **£600** to cover:

- negotiations and correspondence including attending meetings with the parties and their solicitors.
- preparing a section 4 agreement
- preparing a minute of agreement.

**Additional work covered by template**

<i>Standard additional work item – complete at Section G Question 3</i>	
• <b>B</b> - Medical or other reports	<b>£350</b>
• <b>H</b> - If it appears the case would be suitable for mediation – half the cost of the mediation.	<b>£400</b>
• <b>I</b> - Applying for civil legal aid to apply to the court for an order, including getting a statement from the applicant showing the welfare arrangements for the child and a corroborating statement.	<b>£300</b>
<i>Additional work item – complete at Section G Question 4</i>	
• If the medical reports will cost more than the standard amount, you should give us full details.	
• Preparing and registering in the Books of Council and Session a written agreement between father and mother to give father rights and responsibilities.	<b>£400</b>

## Minutes of agreement

### 25. Stage 1 – negotiations

**In applying for an increase under the stage 1 template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case

#### **Work covered by the template**

We will grant an initial increase to **£500** to begin negotiations. We may grant an increase to more than £500 for further negotiations if it appears the negotiations may be helping to resolve matters and may avoid the need for lengthy court proceedings. If you wish to apply for this larger increase, you should include this in questions 3 and 4 of the form, relating to additional work.

### 26. Stage 2 – drafting, adjusting and registering minute of agreement

**In applying for an increase under the stage 2 template, you confirm that under the existing limit**

- you have carried out the negotiations in stage 1
- you have reached terms of agreement.

#### **Work covered by stage 2 template**

We will grant a further increase of **£500**, once terms of agreement are reached, to draft and adjust the minute of agreement and have it signed and registered.

### 27. Stage 3 – implementation and enforcement

**In applying for an increase under the stage 3 template, you confirm that under the existing limit**

- you have registered the minute of agreement.

#### **Work covered by stage 3 template**

Once the minute of agreement has been registered, we will grant a further increase of **£500** to implement it – for example, transferring assets such as insurance policies, payment of capital.

#### **Additional work covered by stage 3 template**

<i>Additional work item – complete at Section G Question 4</i>	
• Enforcement of the terms of the agreement, for example, arrestment of wages.	<b>£300</b>
• Negotiating a variation to the agreement.	<b>£500</b>
• We will consider requests for subsequent increases to draft a supplementary agreement.	

### 28. Adoption

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case.

#### **Work covered by the template**

We will grant an increase to **£500** to enable you to

- get supporting statements from the step-parent and the natural parent addressing the welfare arrangements for the child
- do all the work necessary to apply for legal aid.

## 29. Declarator of parentage

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case.

### Work covered by the template

We will grant an increase to **£500** to enable you to

- get a statement from the applicant providing full details of opportunity for the alleged father to have fathered the child etc, and
- get a corroborating statement, and
- where appropriate, get any birth certificate
- do all the work necessary to apply for legal aid.

### Additional work covered by template

<i>Additional work item – complete at Section G Question 4</i>	
<ul style="list-style-type: none"><li>• One half of DNA tests, with the other half being met by the other party, where<ul style="list-style-type: none"><li>◦ the applicant appears to have good grounds for asking for the tests to be carried out and</li><li>◦ there is a reasonable prospect that the outcome of the tests will avoid the need for court proceedings.</li></ul></li></ul>	<b>£450</b>
<ul style="list-style-type: none"><li>• If the other party refuses to share the costs, we will give an increase to cover the total costs. Any increase should also include the fees payable to a GP for taking the blood sample.</li></ul>	

## 30. Assumption of parental rights or responsibilities

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case.

### Work covered by the template

We will grant an increase to **£500** to enable you to apply for legal aid to –

- defend an application for a parental responsibilities order, or
- bring or defend an application for variation or discharge of a parental responsibilities order, or
- appeal, or oppose an appeal, in relation to the making, or the refusal to make, a parental responsibilities order or an order varying or discharging a parental responsibilities order.

## 31. Aliment

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case
- noted general details and there appears to be a need to make a claim for aliment.

### Work covered by the template

We will grant an increase in authorised expenditure to **£550** to cover the following work:

- getting evidence of your client's financial details, income and outgoings
- intimating the claim for aliment to the opponent, negotiating and holding further meetings with the client, telephone calls and correspondence, and all copying charges
- preparing a schedule of income and outgoings
- if agreement is reached, finalising and registering a minute of agreement.

### Additional work covered by the template

<i>Additional work item – complete at Section G Question 4</i>	
<p>Trying to get arrears of aliment paid – to cover the cost of</p> <ul style="list-style-type: none"><li>• instructing sheriff officers to get diligence, by arresting a bank account, an earnings-related arrestment or by serving a charge, and</li><li>• if the period of the charge expires, instructing them to poind.</li></ul>	<b>£300</b>

## Employment tribunals

For detailed guidance on advice and assistance and ABWOR for employment tribunals, refer to paragraphs 8.64 to 8.70.

### 32. Advice and assistance only – stage 1 template

**In applying for an increase under the stage 1 template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case.

#### **Work covered by the stage 1 template**

We will grant an increase to **£300** for advice and assistance given before applying for ABWOR, to:

- meet the client and advise them of steps they may take to submit a claim
- read form IT3
- discuss with and advise client on steps they may take in relation to IT3
- request further and more detailed information (if needed)
- correspond with ACAS to ascertain scope for settlement (if needed)
- write to the tribunal for formal orders etc
- submit the application for ABWOR.

### 33. Stage 2 – ABWOR template

**In applying for an increase under the stage 2 template, you confirm that under the existing limit**

- you have taken instructions
- we have approved ABWOR.

#### **Work covered by the stage 2 template**

We will grant an increase to **£1,800** if you need to:

- meet client to prepare, complete and lodge form ET1 or consider form ET3
- correspond with ACAS to ascertain scope for settlement (if necessary)
- prepare for and attend case management discussion
- take and frame witnesses' statements
- request documents
- prepare and lodge note of documents, including photocopying up to six sets of documents
- prepare for and attend pre-hearing review
- meet client and advise on outcome of pre-hearing review and prospects of application for review (if necessary)
- correspond with client and tribunal (if necessary)
- prepare for hearing
- attend and present the hearing
- cite witnesses and meet witness expenses
- read the tribunal's determination
- meet client, advise on outcome and prospects of application for review or appeal to Employment Appeal Tribunal
- prepare for review hearing (if necessary)
- attend and present review hearing (if necessary)
- meet client and advise on outcome of review hearing (if necessary).

#### **Additional work covered by the template**

<i>Additional work item – complete at Section G Question 4</i>	
Where discrimination is an issue, drafting questionnaires, submitting them to the respondent and examining their responses.	<b>£500</b>

### 34. European agreement on the transmission of applications for legal aid

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case.

#### **Work covered by the template**

We will grant an increase to **£500** to enable you to

- prepare supporting documents
- complete a standard application form to apply for legal aid in civil, commercial or administrative matters in territory of another state that is party to the agreement
- to get additional information required by the other country before it decides on the application.

### 35. Failure to obtemper court orders

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case.

#### **Work covered by the template**

We will grant an increase to **£500** to enable you to get –

- a statement from the applicant showing the terms of the order obtained, when it was served on the opponent, how and when it was breached
- a supporting statement, if available
- a copy of the court interlocutor

and to do all the work necessary to apply for legal aid.

### 36. Fatal Accident Inquiries

Advice and assistance cannot be used for representation at a Fatal Accident Inquiry. Civil legal aid is available for these proceedings.

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case.

#### **Work covered by the template**

- We will grant an increase to **£500** to do all the work necessary to apply for legal aid.

### 37. Guardianship

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case.

#### **Work covered by the template**

- We will grant an increase to **£500** to enable you to do all the work necessary to apply for legal aid.

#### **Additional work covered by the template**

*Standard additional work item – complete at Section G Question 3*

- **A** - instructing, getting and reading a GP's report

**£150**

## Housing

### 38. Housing benefit

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case.

#### **Work covered by the template**

We will grant an increase to **£250** for the following work:

- finding out why housing benefit is not being paid, or not being fully paid, or needs backdating.
- writing to the landlord and housing benefit office to resolve the matter and helping the client apply for a backdate, if appropriate.
- advising the client about their right to appeal against the decision of the local Housing Benefit Office to the Independent Appeals Service, if necessary
- advising the client on preparing for a hearing before the Independent Appeal Service.

### 39. Appeal against decision of the Independent Appeal Service

**In applying for an increase under the template, you confirm that under the existing limit**

- you have taken instructions on the appeal.

#### **Work covered by the template**

We will grant an increase of **£500** to do the following work:

- getting any supporting documentary evidence needed
- examining housing benefit submissions
- do all the work necessary to apply for legal aid.

### 40. Eviction

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case.

#### **Work covered by the template**

We will grant an increase to **£550** to do the following work:

- negotiating with the landlord about rent arrears, or anti-social issues or other grounds for possible action
- taking statements from witnesses
- getting any reports that are needed
- do all the work necessary to apply for legal aid.

### 41. Dampness and housing repair claims

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case.

#### **Work covered by the template**

We will grant an increase to **£500** to cover:

- intimating a claim against the landlord
- negotiations
- do all the work necessary to apply for legal aid.

#### **Additional work covered by the template**

<i>Standard additional work item – complete at Section G Question 3</i>	
• <b>B</b> - Medical report	<b>£350</b>
• <b>E</b> - Architect's report	<b>£400</b>

## Interdict

### 42. Interdict against abuse

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case.

#### **Work covered by the template**

We will grant an increase to **£550** where you need to do the following further work:

- writing to the opponent telling them what conduct your client is complaining about, and that proceedings will be raised if the conduct does not stop
- instructing, getting and reading a GP's report
- getting statements from witnesses (allow two statements)
- corresponding and meeting client as necessary
- do all the work necessary to apply for legal aid.

### 43. Other interdicts

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case.

#### **Work covered by the template**

We will grant an increase to **£500** where you need to do the following further work:

- writing to the opponent telling them what conduct or nuisance your client is complaining about, and that proceedings will be raised if, for example, the conduct does not stop or the damage is not made good
- getting statements from witnesses (allow two statements)
- corresponding with and meeting client as necessary
- do all the work necessary to apply for legal aid.

#### **Additional work covered by the template**

<i>Standard additional work item – complete at Section G Question 3</i>	
• B - Instructing, getting and reading a medical report	<b>£350</b>
• F - Instructing, getting and reading a technical report	<b>£300</b>
<i>Additional work item – complete at Section G Question 4</i>	
• Getting and reading copy title deeds	<b>£100</b>

### 44. Breach of interdict

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case.

#### **Work covered by the template**

We will grant an increase to **£500** to enable you to get –

- a statement from the applicant showing the terms of the order obtained, when it was served on the opponent, how and when it was breached
- a supporting statement, if available
- a copy of the court interlocutor

and to do all the work necessary to apply for legal aid.

## **45. Judicial review (including judicial review of Board decisions)**

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case.

### **Work covered by the template**

We will grant an increase to **£500** to allow you to do all the work necessary to apply for legal aid to petition for judicial review.

## **Mental Health (Care and Treatment) (Scotland) Act 2003**

### **46. First increase**

**In applying for an increase under the template, you confirm that under the initial limit**

- you have granted ABWOR to oppose an application for a compulsory treatment order in terms of the Mental Health (Care and Treatment) (Scotland) Act 2003, and
- you have taken initial instructions from your client, and
- you are applying to continue the application for a compulsory treatment order to allow for preparation of an independent psychiatric report.

### **Work covered by the template**

We will grant an increase to **£1,500** to get

- an independent psychiatric report and
- background information about the case from the applicant, staff nurse, key worker and mental health officer and
- to cover the preliminary hearing, at which the tribunal may consider an interim compulsory treatment order.

You will need to tell us:

- whether the applicant is a patient or an informal patient, at which hospital, and the ward number or name
- where and when the application for a compulsory treatment order will first call before the Mental Health Tribunal for Scotland
- the likely cost of the psychiatric report.

### **47. Second increase**

**In applying for an increase under the template, you confirm that under the initial limit**

- you have carried out the work shown in template 46 (first increase), and
- the application has been continued to a full hearing of the Mental Health Tribunal for Scotland.

### **Work covered by template**

We will grant an increase of **£500** to cover

- meeting your client to discuss with them at greater length the application for a compulsory treatment order
- getting the client's up-to-date instructions
- discussing the case with any relevant witnesses before the next calling of the application
- attendance at hearing by experts
- representation at the hearing.

## 48. Naturalisation as a British citizen

**In applying for an increase under the template, you confirm that under the initial limit you have carried out the following work:**

- an initial meeting with your client to
  - assess eligibility, and advise them on legal requirements and application form for British naturalisation
  - advise them on the Home Office definition of lawful residence and explore with them getting evidence of residence
- if your client has no valid passports, writing to relevant organisations to ask for alternative written evidence of residence (such as letters from Department for Work and Pensions, employers, schools, universities)
- exploring with your client the evidence needed to meet other requirements – for example, evidence that they have indefinite leave to remain (ILR), have passed the Life in the UK test, and evidence of relationships (spouse and children)
- advising your client about requirements for referees and who can act as referees; character requirements; and rules about absences abroad, and assessing whether they meet these requirements.

### **Work covered by template**

We will grant an increase to **£220** for the following work

- for a further appointment, once your client has passed the Life in the UK test and had the referee sections completed on the form, to examine the supporting documents provided and to finalise the application before submitting it to the Home Office
- sending the application to the Home Office, keeping your client updated on its progress, and telling them when the Home Office acknowledges it.
- if the Home Office asks for additional information or documents, writing to the client asking for this and sending it to the Home Office
- if the Home Office has not contacted you within 3 months, writing reminder letters
- if your client needs their passport back while the application is still being considered, writing to the Home Office asking for it
- telling your client the outcome of their application once a decision is received, and explaining about citizenship ceremonies and applications for British passports.

## 49. Non-harassment orders

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case.

### **Work covered by template**

We will grant an increase to **£500** to enable you to get –

- a statement from the applicant providing details of the alleged harassment
- a supporting statement if available
- details of any damages sought and justification for the damages, if appropriate and to do all the work necessary to apply for legal aid.

### **Additional work covered by template**

<i>Standard additional work item – complete at Section G Question 3</i>	
• <b>A</b> – GP medical reports	<b>£150</b>
• <b>G</b> - Police reports	<b>£150</b>

## 50. Payment actions

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case
- you have established that the debt is more than £1,500.

### **Work covered by template**

We will grant an increase to **£500** to enable you to get

- statements
- evidence of debts or sums paid
- if defending an action, evidence that the debtor has not paid and to do all the work necessary to apply for legal aid.

## 51. Recovery of heritable property (mortgage rights)

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case.

### **Work covered by template**

We will grant an increase to **£550** to cover the following work:

- negotiating with the heritable creditor to arrange repayment of mortgage arrears
- taking statements from witnesses
- getting any reports that are needed
- doing all the work necessary to apply for legal aid.

## Reparation

Many reparation cases will fall into the categories shown below.

If you need to do work that does not come into these categories, you should refer to paragraph 8.97 and the sections on specific types of case.

## 52. Personal injuries – claim for damages between £1,500 and £10,000

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case.

### **Work covered by template**

We will grant an increase to **£750** if you need to do the following further work:

- intimating a claim
- obtaining medical records
- instructing, obtaining and reading a medical report
- entering negotiations with opponents
- corresponding and meeting with client as necessary
- obtaining statements from witnesses (allow two statements)
- assisting applicant in applying for civil legal aid if negotiations prove unsuccessful.

### 53. Personal injuries – claim for damages exceeding £10,000

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case.

#### **Work covered by template**

We will grant an increase to **£1,200** if you need to do the following further work:

- intimating a claim
- obtaining medical records
- instructing, obtaining and reading a medical report
- entering negotiations with opponents
- corresponding and meeting with client as necessary
- obtaining statements from witnesses (allow two statements)
- assisting applicant in applying for civil legal aid if negotiations prove unsuccessful.

### **Medical negligence**

#### 54. First report

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case and
- your provisional estimate of quantum is over £3,000.

#### **Work covered by template**

We will grant an increase to **£1,600** if you need to do the following further work for a first report:

- meeting with applicant to advise about possible remedies
- corresponding with client to advise, recovering copy medical records
- examining and considering copy medical records (including, where appropriate, preparing detailed chronology and notes), plus pagination of records (where appropriate and at unqualified rate) with a view to instructing appropriate expert(s)
- further meeting with client to review records and frame detailed statement and to take statement from corroboratory witness if appropriate
- getting any necessary information, documentation or clarification with a view to instructing expert
- further correspondence including correspondence with client to advise, correspondence with authorities expert and holders of medical records and detailed letter of instruction to expert on either Hunter v Hanley liability report or causation report
- meeting with client to review report through to decision whether to
  - (i) discontinue claim and close file,
  - (ii) intimate claim or
  - (iii) seek further increase in authorised expenditure for causation report (if not previously obtained) or liability report (if not previously obtained).

#### **Additional work covered by template**

<i>Additional work item – complete at Section G Question 4</i>	
• outlays for each holder of medical records	<b>£50</b>
• outlays for an expert report of consultant in the relevant field of experience on Hunter v Hanley liability or causation.	<b>£350</b>

Only in exceptional cases should you intimate a claim before detailed investigation, including getting the necessary liability and/or causation reports.

## 55. Second report

**In applying for an increase under the second report template, you confirm that under the initial limit**

- you have obtained a supportive report from an appropriate expert on either liability or causation, but
- need to instruct a separate report on the other.

### **Work covered by template**

We will grant an increase to **£780** to do the following work:

- framing supplementary statement of applicant to deal with the issue of causation (if statement previously obtained relates primarily to issues raised in previous report)
- recovering updated copies of hospital and GP records to show any treatment since the previous copy records
- examining additional records
- instructing expert to prepare report on liability or causation
- examining report
- further meeting with client to review report through to decision whether to
  - (i) discontinue claim and close file, or
  - (ii) seek further increase in authorised expenditure to intimate claim and/or submit legal aid application.

### **Additional work covered by template**

<i>Additional work item – complete at Section G Question 4</i>	
• outlays for each holder of medical records	<b>£50</b>
• outlays for an expert report of consultant in the relevant field of experience on Hunter v Hanley liability or causation	<b>£350</b>

## 56. Third stage

**In applying for an increase under the third stage template, you confirm that under the initial limit**

- you have obtained the necessary supportive evidence to establish liability and causation, and
- you are now ready to intimate a claim and if appropriate apply for legal aid.

### **Work covered by template**

We will grant an increase to **£500** for the following work:

- intimating claim
- corresponding and negotiating with opponent's agents to establish whether liability is repudiated
- corresponding with client
- investigating and corresponding about quantification of claim
- applying for legal aid if necessary.

## 57. Sexual offence prevention order

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case.

### **Work covered by template**

In cases where the applicant is defending the case, we will grant an increase to **£500** to cover

- getting statements
- applying for civil legal aid.

## Social security

### 58. Department for Work and Pensions decision

This template also covers a decision by a council for housing or council tax benefit.

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case.

#### **Work covered by the template**

We will grant an increase to **£400** to cover the following work:

- writing a letter to the Department for Work and Pensions asking for a review
- meeting the client to discuss the outcome of a review
- advising the client about drafting a letter of appeal to the Appeal Service, and
- submitting the appeal form, if necessary
- considering the Department for Work and Pensions submission and advising the client about it
- helping the client prepare for Appeal Service hearing
- meeting the client to discuss the outcome of the tribunal.

#### **Additional work covered by template**

<i>Standard additional work item – complete at Section G Question 3</i>	
• <b>B</b> - Reports, including medical reports.	<b>£350</b>
<i>Additional work item – complete at Section G Question 4</i>	
• If the reports will cost more than this, you should give us full details.	

### 59. Appeal to Social Security Commissioner

**In applying for an increase under the template, you confirm that under the initial limit**

- you have met the client
- you have taken instructions and details of the case
- established that the appeal is a matter of Scots law.

#### **Work covered by template**

We will grant an increase to **£500** to do the following work:

- taking statements from witnesses
- obtaining all necessary photocopying to support the case
- helping your client apply for civil legal aid including providing the detailed grounds of appeal necessary to consider the statutory tests.

#### **Additional work covered by template**

<i>Standard additional work item – complete at Section G Question 3</i>	
• <b>B</b> - Reports, including medical reports, not already obtained	<b>£350</b>
<i>Additional work item – complete at Section G Question 4</i>	
• If the reports will cost more than this, you should give us full details.	

## Part 2 – non-templated increases

### 8.2 Anti-social behaviour orders (ASBOs)

For an increase for this topic we strongly recommend you use template 1.

### 8.3 Asylum

For an increase for this topic we strongly recommend you use template 2.

We will also allow an increase where you can show it is necessary to attend with a client at any interview with the IND or instruct English agents where the interview takes place in England.

### 8.4 Asylum appeals

For an increase for this topic we strongly recommend you use template 3.

### 8.5 Bonds of caution in executries

Where an individual dies without leaving a will and the court appoints an executor to administer the estate, the executor may require a bond of caution. Bonds of caution are not required in small estates where the value of the estate is £30,000 or less. In addition, bonds of caution are not required where the whole estate is passing to a surviving spouse to meet their legal and prior rights.

The bond of caution provides indemnity to any beneficiaries of the estate if there is any error or maladministration by the executor.

If you wish to get funding under advice and assistance for the cost of the premium, you must ask for an increase in authorised expenditure.

Before we can consider any request for an increase, we need the following information:

- What is the value of the estate and, in particular, is it more than £30,000?
- Why are those involved in winding up the estate not meeting the costs of the premium for the bond of caution at the outset, ultimately recovering it from the estate?
- If there is no means for paying the premium of the bond of caution other than by an increase in authorised expenditure, you must give us detailed information to support this.
- Is the applicant the surviving spouse and are there other beneficiaries?

In the vast majority of cases, we would expect the solicitor or other parties involved in winding up the estate to meet the costs of the premium for the bond of caution. If this is not possible, you must give us full reasons why not to allow us to consider whether it would be reasonable to allow an increase in authorised expenditure.

For information on bonds of caution for other matters, see chapter 13, paragraphs 13.85 to 13.87.

### 8.6 Caveats

An increase will not normally be necessary. You must give full reasons if you believe that an increase is necessary and reasonable.

## **8.7 Child abduction – applications under the Hague Convention**

For an increase for this topic we strongly recommend you use the templates.

### **8.8 Streamlined procedure**

Regulation 45 of the civil legal aid regulations puts in place streamlined procedures to deal with applications for legal aid made by a person resident outside the UK. The streamlined procedure applies only to cases where

- the person is resident outwith the UK,
- they wish to pursue an action at first instance before the Court of Session, and
- Scottish Ministers certify the application as a convention application.

For an increase for this topic we strongly recommend you use template 4.

### **8.9 Defending action under the Convention**

The normal rules of dealing with increases and legal aid applications apply to applications for legal aid to defend actions under the Convention.

For an increase for this topic we strongly recommend you use template 5.

### **8.10 Appeals**

Someone may apply for legal aid to appeal (or to oppose an appeal) to the Inner House of the Court of Session or the House of Lords. If they were granted legal aid as the original petitioner in the case, we do not need to consider their means and they do not need to pay a contribution. However, we do need to consider probable cause and reasonableness and it will be necessary to intimate the application to the opponent.

For such an application for legal aid we need –

- an application form signed by the applicant or the solicitor.
- a statement from the solicitor and a copy for each opponent.
- a copy of the Ministers' certificate, if there was no application for legal aid at first instance.

For an increase for this topic we strongly recommend you use template 6.

## **8.11 Child Support Agency and the Child Support Act 1991**

### **8.12 Child Support Agency**

Usually, the initial £95 should be enough for you to deal with all matters arising from an individual's involvement with the Child Support Agency.

### **8.13 Appeal procedures**

For an increase for this topic we strongly recommend you use template 7.

An appeal can be made to the Child Support Commissioner, on a point of law only. Civil legal aid can be made available for such appeals. In certain circumstances, an appeal can be made to the Court of Session or the Court of Appeal. Civil legal aid can be made available for cases directed to the Court of Session, but not for the Court of Appeal.

### **8.14 Actions of illegitimacy or non-parentage**

Individuals raising actions of illegitimacy or non-parentage can apply for advice and assistance and civil legal aid in the normal way.

## **8.15 Children's hearings and appeals – Children (Scotland) Act 1995 Part II**

### **8.16 Initial children's hearing**

The initial limit of **£95** should normally be enough to advise a client about the procedure at the hearing and to consider and explain the grounds of referral and background papers.

There may, however, be cases where an increase to **£250-£350** is justified, for example, where –

- there are lengthy, complex grounds of referral and background papers which may include medical reports;
- the particular child has difficulties understanding the process or reports;
- the particular relevant person has difficulties understanding the process or reports due to learning disability or physical or medical ailments; or
- the child and/or relevant person cannot attend your office and you need travel costs. You would have to put forward substantial reasons such as the relevant person being in hospital or the child being in a secure unit for us to consider this.

In general, we will not grant increases in advice and assistance for preparation for proof. As you would apply for legal aid to the sheriff and this can be dealt with very quickly, you should carry out all preparation work under the grant of legal aid. The initial limit should be enough to complete the CHILD/APP form and we will not grant increases for this.

### **8.17 Continued hearing – remit hearing**

The legal aid certificate ends at the conclusion of the court proof. If the grounds are established in court then another hearing will take place to decide if the child should be put on a supervision requirement. Generally, we will allow a further increase of **£120** to examine papers with the client and advise them accordingly.

### **8.18 Other hearings**

For advice and assistance, any other hearings are considered to be fresh matters and the initial limit of **£95** should normally be enough to explain the procedure to clients and consider the background papers and reports.

See paragraph 8.16 *Initial children's hearing* for circumstances where an increase to **£250-£350** may be justified.

### **8.19 Advice hearings**

#### **Criminal advice hearing**

Where the sheriff asks for the advice of a children's hearing on how a matter should be disposed of, the child will probably have criminal legal aid or already be receiving ABWOR. Separate advice and assistance may not be necessary.

If the child is under 16 years old and the relevant person has been cited (as opposed to invited) to attend the criminal advice hearing, the initial limit of **£95** should normally be enough to advise the relevant person.

#### **Adoption advice hearings**

The initial limit of **£95** should normally be enough to advise the client of procedure and consider the background papers or reports.

See paragraph 8.16 *initial children's hearing* for circumstances where an increase to **£250-£350** may be justified.

## **8.20 Child protection orders and related hearings**

The initial limit of **£95** should normally be enough to advise the client of procedure and consider background papers or reports.

See paragraph 8.16 *initial children's hearing* for circumstances where an increase to **£250-£350** may be justified. However, as this is an emergency hearing fixed at very short notice, there are unlikely to be many background papers or reports and there are no grounds of referral.

Generally, we will allow an increase of **£120** to advise clients of procedure if the child protection order is continued to another hearing, and to go through the grounds of referral and consider any background papers or reports.

## **8.21 Appeals against decisions of children's hearing**

Generally, we will allow a further increase of **£120** to consider the written reasons of the panel, discuss the terms of any appeal with the client and submit the note of appeal and application for children's legal aid to the sheriff if the client asks for this.

If the client appeals against the decision of the children's hearing, legal aid is then available (if they are eligible) to prepare and conduct the appeal. We will not usually grant Increases in advice and assistance for preparing the appeal. As you would apply to the sheriff for legal aid, and this can be dealt with very quickly, you should normally carry out all preparation work under legal aid.

## **8.22 Appeals to the Sheriff Principal or Court of Session**

An increase of **£350** should normally be enough to prepare and submit a legal aid application for this. We will normally refuse any increase for preparatory work for the appeal as the work should not normally be undertaken until legal aid is granted. In certain circumstances, however, you can apply to us for legal aid as a matter of special urgency before the full application is determined.

## **8.23 Applying for civil legal aid**

We may grant an increase to enable you to complete and submit a civil legal aid application.

- If you are not using any other template that relates to the subject matter of the advice and assistance, we recommend that you use template 8 "applying for civil legal aid".
- If you have applied for or been granted a templated increase for some other aspect of work, we would not grant a templated increase simply to apply for legal aid. Some of the templates include applying for civil legal aid. Where this is not included you can just mark the box on the increase form for standard additional work. This gives you £300 to apply for civil legal aid.

## 8.24 Conveyancing

For cases about the transfer of the family home between spouses, civil partners or cohabitants on separation, divorce or dissolution of civil partnership where no payment is changing hands, you should refer to paragraph 8.25.

Before agreeing to the use of public funds for conveyancing, we must be persuaded there is a good reason to do so. Where an applicant is entering a voluntary transaction for the purchase or sale of heritable property, this is unlikely. Applicants should generally be expected to take the cost of conveyancing into account before deciding to continue with an entirely voluntary transaction.

There are, however, circumstances where we would, in general, consider it appropriate to grant an increase:

- Where the conveyance is for the transfer from one spouse to another of the family home on separation, divorce or dissolution of civil partnership, and no payment in respect of the transfer is changing hands. (See paragraph 8.25.)
- Where the conveyance is for the transfer from one cohabitee to another of the former home following the breakdown of the relationship and no payment in respect of the transfer is changing hands. (See paragraph 8.25.)
- To allow an applicant to complete title to heritable property following the death of a spouse or civil partner.
- To allow the transfer of property on the death of a spouse or civil partner.
- Where the applicant is in severe financial difficulties and has to sell heritable property, but is unable to meet the costs from any other source. In this situation, if a bank or building society has already begun proceedings for the sale, it would not normally be reasonable to grant an increase unless you put forward a good case to show that
  - the applicant is likely to suffer severe financial disadvantage because of the way in which the security holder will carry out the sale compared with the situation if the applicant disposes of the property
  - the applicant benefits in some way rather than the creditor(s) – if it is only the creditor(s) who will benefit, it would generally be more reasonable for them to pay the expenses rather than public funds.
- Where the transaction is not voluntary. Sometimes, a block of property is being improved and an applicant has to contribute and instruct a solicitor to prepare loan documentation that would otherwise not be necessary.
- Where work is needed in connection with us taking security over the applicant's property, arising from recovering or preserving property in civil proceedings.

Where we allow an increase to cover conveyancing costs, the following may be included

- any work to be carried out for preparing the disposition, security documents and any assignation of a policy or policies
- other expenses normally incurred in a conveyancing transaction including registration dues, search fees and the cost of getting local authority reports where necessary
- any outlays, in full (other than those specifically excluded below) which can be met under advice and assistance
- the solicitor's fees in undertaking the conveyancing work. You are not entitled to charge normal private rates for the conveyancing but must charge at advice and assistance rates. An appropriate increase for the solicitor's element of the work would range from **£350 to £500**, as well as the costs of expenses and outlays, depending on the work envisaged.

You should provide specific details of these costs, having regard to the charges made by local authorities and searchers and taking into account the dues of registration which will be payable for the property involved. If you do not provide a breakdown of the likely costs in the individual situation, we may continue the request for this information.

### ***Certain expenses are specifically excluded:***

- Third-party expenses. A co-owner may be agreeable to the sale of a property if their conveyancing expenses are met. This is not a proper charge on the Fund.
- Payment of a solicitor's or estate agent's sale commission.

- Stamp duty.
- Advertising costs and surveyors' fees.

If these form part of any request for an increase, we will refuse them.

## **8.25 Conveyancing – transfer of family home between spouses, cohabitees or civil partners on separation, divorce or dissolution of civil partnership**

Before agreeing to the use of public funds for conveyancing, we must be persuaded there is a good reason to do so. However, it is generally reasonable to grant an increase –

- where the conveyance is for transferring the family home from one spouse to another on separation or divorce and no payment for the transfer is changing hands
- where the conveyance is for transferring the former home from one cohabitee to another following the breakdown of the relationship and no payment for the transfer is changing hands.

In each request we need information not only about the conveyancing costs which are to be incurred but also about –

- the settlement or agreement to be entered into, including the value of the house
- the payment (if any) which is to be made for the transfer of the house
- the amount of any mortgage
- whether the building society or bank is prepared to accept the applicant as solely liable for the mortgage
- whether the applicant can maintain the mortgage payments
- whether the house is to be retained for the foreseeable future.

An appropriate increase will cover

- any outlays, in full (other than those specifically excluded below) which can be met under advice and assistance
- any work to be carried out in preparing the disposition, security documents and assigning a policy or policies
- other expenses normally incurred in a conveyancing transaction including registration dues, search fees and the cost of getting local authority reports where necessary
- your fees in undertaking the conveyancing work – you are not entitled to charge normal private rates for the conveyancing but must charge at advice and assistance rates. An appropriate increase for the solicitor's element of the work would be **£350 to £500** depending on the work envisaged.

You should provide specific details of these costs, having regard to the charges made by local authorities and searchers and taking into account the dues of registration which will be payable for the property involved. If you do not provide a breakdown of the likely costs in the individual situation, we may continue the request for this information.

### ***Certain expenses are specifically excluded:***

- Stamp duty is not payable in transfers between spouses but is chargeable in transfers between cohabitees. We will refuse any request for an increase to pay stamp duty.
- If you ask for an increase to cover any third-party costs not specifically referred to in this guideline, we will seek clarification from you.

### **Payments being made by the applicant**

In cases where the applicant is making a payment for the transfer, as well as the information shown above we need to know

- why the conveyancing costs should be met by public funds where an applicant is able to make a payment for the transfer
- whether the payment is being made by a third party who could also meet the conveyancing costs
- whether the payment is being funded by a mortgage or additional mortgage that can be extended to include conveyancing costs.

## Costs of the person transferring the property

We sometimes receive applications for an increase to cover the costs of the person transferring the property. These costs are much more limited than the costs incurred by the person receiving the transfer. We need to know whether –

- a payment is being received for the transfer
- the payment is enough to cover the conveyancing costs
- the payment is earmarked for settlement of matrimonial or civil partnership debts that will exhaust it
- the transfer is necessary to implement an agreement reached and avoid costly litigation.

Generally, we will consider the applicant's personal circumstances, the benefit to the person to whom the property is to be transferred and any children, and the benefit to the Fund of settling matrimonial or civil partnership disputes by agreement.

We will generally allow an increase of **£250** to cover your work, with a sum sufficient to cover the outlays normally borne by the person transferring the property such as local authority reports and searches. As with increase applications for the conveyancing costs of the person to whom the property is to be transferred, you should provide a full breakdown of the costs to be incurred. If you do not, we may continue the request for this information.

## 8.26 Criminal injuries compensation claims

The initial limit of authorised expenditure will usually be enough to enable you to complete the criminal injuries application forms and submit them to the Criminal Injuries Compensation Authority (CICA). The CICA will normally get any reports considered necessary and you will not have to be involved in this.

There may, however, be situations where either the CICA requires you to get reports and submit them for consideration or, in the best interests of the applicant, separate medical or other evidence is needed. Where you ask for an increase in authorised expenditure for this

- you should make it clear precisely what information the CICA has requested and give us detailed information on the likely costs of getting the relevant information
- you should give clear reasons why you consider it is appropriate to get separate or additional reports and why CICA refused to obtain these on your behalf.

Any increase in authorised expenditure granted in such circumstances will reflect the cost of the work to be carried out or the cost of the reports.

## 8.27 Appeals

You may make a fresh grant of advice and assistance to cover any work to be carried out on an appeal.

For an increase for this topic we strongly recommend you use template 9.

If you choose not to use the template, your request for an increase in authorised expenditure should

- clearly identify the purpose of the additional information and how it will help in the appeal hearing
- demonstrate that the work to be carried out is directly relevant to the reasons issued by the CICA for refusing the application at first instance.

## 8.28 Crofting

## 8.29 Rent reviews

The Land Court issues a list of decisions on rentals to help with rent review cases. You should be able to offer guidance and advice on such matters without any great difficulty. You will not normally need an increase for this.

### **8.30 Resumption of crofting land**

For an increase for this topic we strongly recommend you use template 10.

### **8.31 Access rights**

For an increase for this topic we strongly recommend you use template 11.

### **8.32 Rights to purchase crofts**

For an increase for this topic we strongly recommend you use template 12.

### **8.33 Sub-lets**

Minimal advice is needed to deal with sub-lets and advice is, in any case, available from the Crofters Commission. We will not normally grant an increase.

### **8.34 Acquisition by cottar of holding**

For an increase for this topic we strongly recommend you use template 13.

### **8.35 Crofting land**

For an increase for this topic we strongly recommend you use template 14.

### **8.36 Decrofting applications**

For an increase for this topic we strongly recommend you use template 15.

### **8.37 Apportionment of common grazings**

For an increase for this topic we strongly recommend you use template 16.

### **8.38 Succession to crofts**

For an increase for this topic we strongly recommend you use template 17.

### **8.39 Bad husbandry**

For an increase for this topic we strongly recommend you use template 18.

### **8.40 Curators ad litem**

In an action where the sheriff appoints a *curator ad litem* to a child, at the first instance, unless the court directs otherwise, the pursuer is responsible for the curator's fees and outlays. These can be incurred during the period from the curator's appointment until

- (a) they lodge a minute stating that they do not intend to lodge defences or enter the process
- (b) they decide to instruct the lodging of defences or a minute adopting defences already lodged, or
- (c) their appointment is discharged before either (a) or (b) occurs.

Requests for increases to cover the costs of initial investigation and submission of reports by the curator will not be granted.

For an increase for this topic we strongly recommend you use template 19.

## **8.41 Diligence**

A grant of civil legal aid can generally be used for any necessary diligence arising from an action. However, advice and assistance is available to carry out certain forms of diligence. These are service of a charge for payment, poinding, sale, arrestment and inhibition. Advice and assistance is not available for an action of furthcoming following an arrestment, civil imprisonment, sequestration, or adjudication following an inhibition.

Before granting an increase, we will consider the following:

- Whether legal aid has been granted for civil court proceedings. Existing legal aid will cover
  - an arrestment in execution of an order for aliment or periodical allowance, if it is carried out within 12 months of the date of the court order
  - registering an alimentary order in another UK court or in a foreign state
  - other forms of diligence, or diligence on an order for aliment or periodical allowance after 12 months carried out with our prior approval.

If you intend to use advice and assistance, rather than civil legal aid, in any of these situations you need to give us good reasons for this.

- The amount of money owed and the prospects of recovering it.
- If the applicant is the subject of the diligence –
  - whether the work proposed is more in the creditor's interest than the applicant's
  - whether it is reasonable to use public funds, bearing in mind the background you give, for example, for repossession by a building society where the situation seems almost certain to recur or when repossession is already underway.

A decree for aliment may have to be registered under maintenance orders legislation in a court for another part of the UK or in the court of a foreign state. We may grant you a small increase so you can undertake the administrative procedure for this in Scotland. Once the decree has been registered outwith Scotland, you cannot take further action to enforce it under advice and assistance.

An applicant living abroad who seeks to enforce a maintenance order in Scotland under the Maintenance Orders (Reciprocal Enforcement) Act 1972 may not have to complete the financial part of the advice and assistance form if they have an exemption certificate from the responsible authority in the foreign country concerned (see paragraphs 14.3 to 14.5).

## **8.42 Divorce, dissolution of civil partnership and family matters**

### **8.43 Family (divorce/dissolution of civil partnership) – financial assets over £50,000, and issues to resolve involving children of the relationship**

For an increase for this topic we strongly recommend you use template 20.

### **8.44 Family (divorce/dissolution of civil partnership) – financial assets over £50,000**

For an increase for this topic we strongly recommend you use template 21.

### **8.45 Family (divorce/ dissolution of civil partnership) – financial assets of £50,000 or less and issues to resolve involving children of the relationship**

For an increase for this topic we strongly recommend you use template 22.

### **8.46 Family (divorce/ dissolution of civil partnership) – financial assets of £50,000 or less and no issues to resolve involving children of the relationship**

For an increase for this topic we strongly recommend you use template 23.

#### **8.47 Divorce/ dissolution of civil partnership – simplified procedure**

The initial expenditure of £95 is enough for this type of divorce or dissolution unless there are exceptional circumstances. A marriage certificate or civil partnership certificate that needs translating or difficulties in having the action served on the opponent are examples we have seen in the past.

If there are exceptional circumstances then an increase to **£300 to £400** may be appropriate. We will refuse any request that gives no obvious reason for the increase.

#### **8.48 Divorce/ dissolution of civil partnership – one year's separation**

An increase to **£450** would be considered reasonable to enable an application for legal aid to be made.

We would expect to see:

- a statement from the applicant
- evidence of the opponent's consent
- a supporting statement from a party outwith the marriage.

#### **8.49 Divorce/ dissolution of civil partnership – two years' separation**

An increase to **£450** would be reasonable to enable an application for legal aid to be made.

We would expect to see:

- a statement from the applicant
- a supporting statement from a party outwith the marriage.

#### **8.50 Divorce/ dissolution of civil partnership – unreasonable behaviour**

An application for legal aid will be needed and we will expect to see –

- a statement from the applicant giving details of the behaviour complained of, and
- evidence of unreasonable behaviour from someone other than a party to the marriage – for example, evidence of violence, a medical report giving details of injuries.

An increase to **£500 to £600** would be considered reasonable to enable such an application to be made. If a GP's report is needed, an additional increase of **£50 to £100** would be reasonable.

#### **8.51 Divorce – adultery**

It may not be possible to have eyewitness accounts of the adultery but we would be looking for the following in any application for legal aid –

- a statement from the applicant showing the marriage has broken down because of adultery and
- an eyewitness statement if this is available, or
- an enquiry agent's report containing either evidence or admissions of adultery by the opponent and paramour, with evidence of cohabitation or at least the opportunity to commit adultery, or
- an enquiry agent's report reporting on observations showing familiarities, association, cohabitation, overnight visiting etc, or
- admissions (in the form of precognitions or letters) by both the opponent and the paramour, or
- evidence of the wife having a child by another man, or
- evidence of a woman having a child by the husband.

The costs of getting statements from the opponent and paramour that they are committing adultery would be a reasonable expense under advice and assistance, as would getting a report from an enquiry agent. However, before granting an increase to get such a report, we need to know –

- where the adultery is taking place, and
- how much the report is likely to cost (we have to guard against “fishing enquiries” – see paragraph 7.7), and
- the prospects of success in getting the necessary evidence, and
- if more than one enquiry agent is to be involved in getting the report, why this is necessary.

(There is normally no need to involve more than one enquiry agent. Most courts will accept the evidence of one agent. More than one might be needed if, for example, the opponent or paramour was expected to be violent when confronted, or the particular court did not accept evidence from one agent.)

An agent’s report would be around £250 and the cost of submitting the application for legal aid without the report would be around £400. We may, therefore, grant an increase to somewhere in the range of **£450 to £700**.

Adultery is not available as a ground for dissolution of a civil partnership. We will not, therefore, grant increases for such cases, unless the application is to defend an action purportedly raised by the opponent on that ground,

### **8.52 Divorce/dissolution of civil partnership – issue of an interim gender recognition certificate**

An increase to **£400** would be considered reasonable to enable an application for legal aid to be made.

### **8.53 Divorce/dissolution of civil partnership – ancillary craves**

The evidence in support of such craves, if they are needed, may be included in the application for legal aid, but an increase might still be needed to cover work undertaken on the ancillary craves. There may be cases where, for example, a report from a doctor or psychologist in support of a crave for a residence order is needed. As well as any increase granted for the main divorce/dissolution proceedings, you may need an increase to cover the additional costs that will be incurred in including information about the craves being sought in the statements.

### **8.54 Separation**

An application for legal aid will be necessary and we will look for the same information as for the divorce/dissolution application.

We would consider an increase to **£500** reasonable to enable an application for civil legal aid to be made.

### **8.55 Contact and residence**

.For an increase for this topic we strongly recommend you use template 24.

## **8.56 Minutes of agreement**

For an increase for this topic we strongly recommend you use templates 25 to 27.

Much of the negotiation may concern financial provisions or matters relating to children. You should refer to the guidelines covering pensions (paragraph 8.91), conveyancing (paragraphs 8.24 and 8.25) and ancillary craves (paragraph 8.53).

Where the negotiations relate to a financial settlement, the value of the assets at issue should be taken into account. We will not reject requests for increases simply because a certain level of expenditure has been incurred and it appears the matter should be proceeding to a civil legal aid application. It is preferable if settlements can be negotiated using advice and assistance.

If you give us information to show that the other side is not willing or interested in negotiation, it might not be appropriate to grant a further increase.

## **8.57 Adoption**

For an increase for this topic we strongly recommend you use template 28.

## **8.58 Declarator of parentage**

For an increase for this topic we strongly recommend you use template 29.

Individuals raising actions of non-parentage can apply for advice and assistance and civil legal aid in the normal way – see template for applying for civil legal aid.

Similar principles apply where someone is seeking to disprove parentage, possibly because some legal presumption of parentage applies, or where the Child Support Agency (CSA) is involved.

## **8.59 Assumption of parental rights or responsibilities**

For an increase for this topic we strongly recommend you use template 30.

## **8.60 Aliment**

For an increase for this topic we strongly recommend you use template 31.

If the arrears are still not paid after diligence, you should ask for a further increase, telling us what further steps of diligence you believe you need to take, and the increase needed. We will consider such applications on their individual merits.

If you hold a decree for aliment, the enforcement provisions are shown in paragraph 8.61.

## **8.61 Aliment – enforcement**

Refer to paragraph 8.41 on diligence.

## **8.62 DNA fingerprinting**

See paragraph 8.58, Declarator of parentage.

For an increase for this topic we strongly recommend you use template 29.

## **8.63 Child Support Agency involvement**

If the CSA is involved, it will offer to pay DNA costs for the alleged father, mother and child. If the alleged father is found to be the father, then the CSA will expect him to pay for the tests, and it may be appropriate to grant an increase to cover him for this.

## 8.64 Employment tribunals

### Background

Civil legal aid is not available for representation at employment tribunals (except for the Employment Appeal Tribunal). However, assistance is available through advice and assistance and/or ABWOR.

- Advice and assistance can be made available to advise an applicant on the necessary steps to be undertaken in such proceedings, and/or to assist in taking those steps. Unless ABWOR is made available, you cannot undertake any step in instituting, conducting or defending proceedings before a tribunal yourself. You can, however, negotiate on behalf of a client and advise on the work that will be needed to progress the claim before the tribunal. The stage 1 template should normally allow you to make a single increase request at the outset of a case and not return to us for further increases where only advice and assistance is needed.
- ABWOR may be made available for representation in proceedings before an employment tribunal. A further template is given for requests for increases under ABWOR.

For an increase for advice and assistance only, we strongly recommend you use template 32.

## 8.65 Employment tribunals – ABWOR for representation

ABWOR may be made available to represent an applicant or respondent in any of the proceedings before an employment tribunal (such as proceedings about dismissal, equal opportunities, racial or sexual discrimination). It may also be made available for proceedings which are initiated in a tribunal in Scotland but then remitted to a tribunal in England, so long as the issue remains one concerning the application of Scots law.

Civil legal aid is not available for representation at employment tribunals. It is available for proceedings before the Employment Appeal Tribunal.

You must get our prior authority before giving ABWOR to your client. This should be done in a letter accompanying the increase form AA/INC/CIV.

If you do not seek authority to give ABWOR to your client, you cannot undertake any step in instituting, conducting or defending proceedings before a tribunal yourself – for example, framing and lodging the initiating document (IT1). You can, however, use advice and assistance to negotiate on behalf of a client and advise on the necessary steps to be undertaken in such proceedings, and/or help them take such steps. (For further information on this and what increases may be granted, see paragraph 8.64.)

### 8.66 The criteria for granting ABWOR

A request for authority to make ABWOR available should satisfy us that –

#### The case is arguable

This test has a low threshold but you must still satisfy us there is at least a prima facie case to be taken to the tribunal. You should therefore address such issues as jurisdiction and the legal basis of the proposed claim.

#### It is reasonable in the particular circumstances of the case that ABWOR be made available.

You should satisfy us that it is reasonable that the applicant should receive public funds to raise or defend proceedings. Examples of the issues which could be taken into account to satisfy this criterion are –

- whether other rights and facilities may be available to the applicant (you must consider the terms of regulation 10 of the advice and assistance regulations)
- whether there has been an attempt made to negotiate a settlement including the services of the Advisory, Conciliation and Arbitration Service (ACAS) or otherwise
- what stage the proceedings have reached and if advanced, how they have been funded to date

- whether the tribunal has considered that there might be poor prospects of success and has asked the applicant to pay a sum of money before pursuing the case
- the likely outcome of the case compared with the likely cost
- whether someone of moderate means who had to pay their own way would be likely to use their own money for the claim.

**The case is too complex to allow the applicant to present it to a minimum standard of effectiveness in person.**

The regulations set out factors we have to consider for this criterion –

- (i) *The determination of the case may involve procedural difficulty or consideration of a substantial question of law, or of evidence of a complex or difficult nature.***

You must consider this factor with the individual applicant in mind. Is the case before the tribunal so ordinary or straightforward that they could understand it and put forward their own case? Or is it a case where legal argument must be put forward or opposed, or where the evidence of the applicant or opponent is complicated? Is there something in the circumstances of the case relating to law or evidence that makes it special or extraordinary from a lay person's standpoint, so that in fairness to them a solicitor should be available? Examples of issues which could be taken into account are –

- the numbers and types of witness involved
- the numbers and types of documents
- what kind of representation the opponent has – such as a solicitor, personnel department or specialist
- whether the hearing takes place in Scotland or England.

- (ii) *The applicant may be unable to understand the proceedings or to state his own case because of his age, inadequate knowledge of English, mental illness, other mental or physical disabilities or otherwise.***

Normally, we can expect that an applicant would be able to understand the proceedings and to state their own case. We will consider each case on its merits. However, a statement that the applicant is of low intelligence or is a poor communicator is unlikely to be persuasive unless they come into one of the categories listed above. Examples would be if they have a speech impediment, are deaf or dumb, of advanced years or immature, or they are perhaps an immigrant who has not achieved a working knowledge of English. An argument that the applicant should be allowed to state their case through a solicitor to put them on equal terms with the opponent is unlikely to satisfy this factor.

These factors are not exhaustive of those that we may consider in deciding whether the case is too complex to allow the applicant to present it adequately themselves. If additional factors are present, we may take them into account.

### **8.67 Appropriate increases in authorised expenditure**

The initial limit of authorised expenditure in these cases is £95. This is not a separate limit for the work done under ABWOR but is an overall limit applying to any advice and assistance given before ABWOR work begins, as well as the work done under ABWOR.

The normal procedure for getting an increase in authorised expenditure in an advice and assistance case applies whether you make the request before or after authority is given to provide ABWOR.

The basic limit of authorised expenditure is unlikely to be enough, unless you are able to dispose of the matter at a very early stage before any hearing before the tribunal.

For an increase for ABWOR we strongly recommend you use template 33.

## 8.68 Employment of counsel

In most cases counsel will not be needed but may occasionally where difficult or complex areas of law or evidence are being considered. You can ask for increases –

- to get an opinion of counsel
- to cover the cost of consultations with counsel
- to instruct counsel to represent the applicant before the tribunal.

(For further general information on the employment of counsel see chapter 7, paragraphs 7.1 to 7.4)

## 8.69 Where authority is granted

You may, however, ask for larger increases where, for instance, the tribunal extends to subsequent days or expert witnesses or reports are involved. There is no upper limit to the increases that may be granted.

## 8.70 Where authority is refused

Where we refuse authority to give ABWOR or an increase in authorised expenditure, the normal procedure for reconsidering an advice and assistance application applies. There is no limit to the number of requests for reconsideration that may be made.

## 8.71 European agreement on the transmission of applications for legal aid

For an increase for this topic we strongly recommend you use template 34.

Most of the European and Scandinavian states have special arrangements to facilitate residents of one state applying for legal aid in another state. The arrangements for this are contained in the European Agreement on the Transmission of Applications for Legal Aid.

Under the Agreement, each state must designate an authority to be responsible for transmitting legal aid applications by any of its residents to the other state in which legal aid is sought, and for receiving applications from foreign residents. The Board is the designated authority in Scotland.

Advice and assistance given in Scotland will only be concerned with the transmission of legal aid applications **to** the foreign jurisdiction.

When someone resident in Scotland wishes to apply for legal aid in civil, commercial or administrative matters in territory of another state that is party to the agreement, they complete a standard application form. They send this to us, with the same supporting documentation we would expect to see with an application for proceedings in Scotland. We will tell the applicant's solicitors of any other particular requirements of the country concerned. For instance, France requires a signed affidavit from the applicant about their financial circumstances.

A Scottish solicitor may competently provide a client with advice and assistance on the transmission of an application for legal aid under the Agreement. We will treat a request for an increase in the same way as an increase relating to an application for legal aid in Scotland. Once we receive the application it will be translated, if necessary, and we will send it to the receiving authority in the appropriate country. If that authority asks for additional information, we will ask you to provide us with it and if necessary grant a further increase in authorised expenditure for this.

Advice and assistance cannot cover any later stages of the proceedings, once legal aid has been granted. It cannot, for instance, cover correspondence between the Scottish solicitor and the lawyer appointed in the foreign jurisdiction once legal aid has been granted.

Some states will accept applications in English but some will not. If not, we will arrange for the application and the supporting papers to be translated. We will not grant increases to enable you to get your own translations.

Increases cannot be granted

- to cover any stages of proceedings in the other country after legal aid has been granted
- for translations of the application for legal aid or supporting documents.

### **8.72 European Court of Human Rights**

We will refuse requests for increases to investigate and prepare cases for submission to the European Court of Human Rights, since an application to the European Court of Human Rights is not a matter of Scots law.

### **8.73 Executry**

Advice and assistance is available for winding up an estate provided the applicant, whether they are the executor or a beneficiary to the will, is financially eligible. You should bear in mind that:

- whether an applicant is applying as an executor or as a beneficiary, it is their own resources that have to be taken into account, not the resources of the estate
- while the advice and assistance regulations do not contain the same provisions on common interest or assessment of estates as the civil regulations, it is reasonable for us to ask you if other people have similar interests, to avoid duplication of requests for increases. If, however, the other people involved have opposing interests, we would not consider any increase granted for them as duplication.

ABWOR is available in relation to petitions for the appointment of an executor, including getting the extract decree dative of appointment. It is, however, only available for unopposed petitions and if we receive a further request when the proceedings become opposed, we cannot grant it.

An application for confirmation of an executor is technically a judicial step in procedure but a grant of civil legal aid is not necessary and advice and assistance can be given.

Advice and assistance may also be of assistance in winding up small estates. In due course, any such estates will be regarded as property recovered or preserved in terms of the advice and assistance regulations. Increases can be made available to carry out this work.

### **8.74 Failure to obtemper court orders**

For an increase for this topic we strongly recommend you use template 35.

### **8.75 Fatal Accident Inquiries**

Advice and assistance cannot be used for representation at a Fatal Accident Inquiry. Civil legal aid is available for these proceedings.

In general, we will only grant an increase to enable you to prepare and lodge the civil application. We will not usually allow substantial increases to take statements from witnesses that the procurator fiscal or you intend to call.

For an increase for this topic we strongly recommend you use template 36.

### **8.76 Guardianship**

For an increase for this topic we strongly recommend you use template 37.

## **8.77 Housing**

### **8.78 Housing benefit**

For an increase for this topic we strongly recommend you use template 38.

### **8.79 Appeal against decision of the Independent Appeal Service**

For an increase for this topic we strongly recommend you use the template 39.

### **8.80 Eviction**

If civil legal aid is needed to defend the action, advice and assistance is available to submit the application. Advice and assistance is not available for any steps in proceedings, to deal with which you will need to apply under the civil legal aid special urgency provisions.

For an increase for this topic we strongly recommend you use template 40.

### **8.81 Dampness and housing repair claims**

For an increase for this topic we strongly recommend you use template 41.

## **8.82 Interdict**

### **8.83 Interdict against abuse**

For an increase for this topic we strongly recommend you use template 42.

### **8.84 Other interdicts**

For an increase for this topic we strongly recommend you use template 43.

### **8.85 Breach of interdict**

For an increase for this topic we strongly recommend you use template 44.

## **8.86 Judicial review (including judicial review of Board decisions)**

For an increase for this topic we strongly recommend you use template 45.

Often solicitors will ask for an increase to get an opinion from counsel to support an application for judicial review. We do not always need this for the full application and, therefore, will not automatically grant an increase. If we have received an application, and specifically asked for counsel's opinion, an increase will be granted.

In all other situations, each request will need to be considered on its own merits.

If you are asking for an increase to more than **£500**, you must give good reasons to show that this is justified.

## **8.87 Mental Health (Care and Treatment) (Scotland) Act 2003**

Advice and assistance may be given in respect of any matter arising under the Mental Health (Care and Treatment) (Scotland) Act 2003. If it is a civil matter and you are satisfied it can only be resolved by proceedings in a civil court, and the applicant is likely to qualify for civil legal aid, the initial limit of expenditure would be £180.

ABWOR is available in relation to any proceedings before the Mental Health Tribunal for Scotland.

No specific criteria have been laid down for granting ABWOR in these proceedings. In addition, no financial test has to be met for these cases to be eligible for advice and assistance.

Applications for advice and assistance or ABWOR may be made by, or on behalf of, a patient or by the patient's nearest relative.

The basic limit may not be enough, unless you can dispose of the matter before any hearing in the tribunal.

For an increase for this topic we strongly recommend you use the templates 46 and 47.

If your client is to lead expert evidence, we may be prepared to grant a larger increase.

### **8.88 Naturalisation as a British citizen**

For an increase for this topic we strongly recommend you use template 48.

This template reflects the work involved in most straightforward applications. You might need to apply to us for a further increase for a more complicated case – for example, for:

- translation costs for documents such as birth and marriage certificates
- if the application is refused, meeting your client to assess the merits of pursuing administrative review, and preparing a review application.

### **8.89 Non-harassment orders**

For an increase for this topic we strongly recommend you use template 49.

### **8.90 Payment actions**

For an increase for this topic we strongly recommend you use template 50.

### **8.91 Pensions**

If you are applying for, or already have, an templated increase under "Family/Divorce", you should use the "additional work" under that template to apply for an increase relating to pensions.

To pay for the administration costs of getting a cash equivalent transfer value (CETV) you can apply for an increase in authorised expenditure.

There are only limited situations where a full actuarial valuation may be needed to ascertain the value of any pension, where:

- a CETV cannot be obtained where the pension is already being paid or where the employee is less than one year from the normal retirement age
- certain small pension schemes, which may be underfunded, may need full actuarial valuations, and some small self-administered pension schemes may not be able to produce a CETV.

If it is appropriate to grant an increase to cover the cost of a full actuarial valuation, an increase to **£600** can be made.

## 8.92 Pension splitting

If you are applying for, or already have, an templated increase under "Family/Divorce", you should use the "additional work" under that template to apply for an increase relating to pensions.

In advising the applicant about pension sharing, you need to take several matters into account including whether it would be better to offset the value of the pension against other matrimonial or civil partnership property.

- The first stage of such advice involves gathering information about the assets individuals may have. We may grant increases up to **£350** for this.
- The second stage involves giving advice to the applicant to decide whether the pension should be split, an earmarking order sought or the value of the pension offset against other matrimonial or civil partnership property. An increase of **£250** may be made available.
- The third stage is where an individual wants to proceed with a pension sharing agreement and needs advice on this – in particular, whether the shares should be left in the existing pension scheme or put into a different pension scheme. This needs specialist pension advice.

You may seek increases in authorised expenditure to get advice from actuaries or other professionals before advising the applicant about their options. Where it is shown that

- pension sharing is a viable option and
- the matrimonial or civil partnership assets are of sufficient value to warrant getting reports from an expert and
- especially, if the issues on which advice is to be given are outwith a family law practitioner's experience or knowledge

we can grant an increase of **£500** for this. Where the value of a pension is low, possibly around £5,000 or less, it is unlikely to be reasonable to allow an increase in authorised expenditure for such expert reports.

## 8.93 Recovery of heritable property (mortgage rights)

For an increase for this topic we strongly recommend you use template 51.

## 8.94 Reparation

Many reparation cases will fall into the categories for which there are templates. If so, you should be able to make a single increase request at the outset of a case and not return to us for further increases.

If you need to do work that does not come into these categories, you should refer to paragraph 8.97 and the sections on specific types of case.

## 8.95 Personal injuries – claim for damages between £1,500 to £10,000

For an increase for this topic we strongly recommend you use template 52.

## 8.96 Personal injuries – claim for damages exceeding £10,000

For an increase for this topic we strongly recommend you use template 53.

## 8.97 Reparation – non “templated” increases

In all reparation cases, when asking for an increase you should tell us

- what happened
- why you think it should not have happened
- whether the applicant’s present predicament is a direct result of what happened
- what the loss is
- whether you have explored the question of liability
- whether a claim has been intimidated.

We also need to know if the claim will be above or below the small claims limit (£750). If it is less, that will have an effect on the increases we grant. Legal aid is not available to pursue or defend small claims. You should refer to paragraph 8.115, dealing with small claims.

If it is above the small claims level, you should satisfy us that you have addressed issues of liability and causation before carrying out substantial work on *quantum*. Where liability is admitted or the opponent wishes to negotiate, we can look at requests to get other necessary reports such as medical or specialist reports and consider increases to enable negotiations to take place. We need your assurance that these negotiations are meaningful.

**You should, where appropriate, refer to the individual guidelines that follow, covering specific types of reparation claim.**

## 8.98 Beat knee

Requests for increases for beat knee cases are generally to enable you to confirm an applicant’s employment history with the HM Revenue and Customs, to intimate claims to the appropriate employer’s liability insurers, to identify, contact and take statements from fellow employees and to get medical reports.

There is little point in pursuing a claim until an applicant’s medical condition has been established, and you can apply for an initial increase to **£500** to enable you to get a specialist report, which will cost about £150 - £300.

- If a satisfactory medical report has been obtained, we may grant a further increase to enable other aspects of the claim to be pursued.
- If the medical report does not find that the beat knee is likely to be due to industrial injuries, we would not normally grant a further increase to allow a second opinion.
- If the specialist is in some doubt about the applicant’s condition and recommends further testing, this may be authorised.

## 8.99 Defective equipment

In cases where loss has allegedly been sustained because of defective equipment or defects in, for example, a vehicle, the applicant will need get a report from an appropriate specialist, either to support continuing negotiations or to support an application for legal aid. That could be an architect or builder in a building dispute or vehicle assessor in a dispute over defects in a car. We can give an increase to cover the reasonable costs of getting such a report. These costs may vary depending on the circumstances but an initial report should cost between **£300 and £600**.

## 8.100 Dyslexia

These actions are similar to other claims based on professional negligence. An expert report addressing the tests laid down in the case of *Hunter v Hanley* (1955 SLT 213) is needed. For general guidance on our approach to professional negligence claims see paragraphs 8.107 and 8.108.

### 8.101 E-coli and other food poisoning

Applications for increases in authorised expenditure in relation to e-coli will be treated in the same way as any other food poisoning case.

- Applicants should have established that they are or were suffering from e-coli before they consult you.
- Sometimes the proposed opponent's insurers might be prepared to meet the costs of investigation into the cause of the infection and consequences for the applicant. We will ask whether this has been done.

*Note: guidance on Gulf war syndrome was removed in April 2007.*

### 8.102 Hepatitis C infections

There have been political developments on hepatitis C cases following an English judgement. We may consider an increase for cases affected by that judgement.

### 8.103 Industrial deafness

There is little point in pursuing a claim until an applicant's medical condition has been established and you can ask for an initial increase to **£400 to £450** to get a specialist report.

- If a satisfactory medical report has been obtained, we can grant a further increase to enable other aspects of the claim to be pursued.
- If the medical report does not find that the deafness is likely to be due to industrial injuries, we would not normally grant a further increase for a second opinion.
- If the specialist is in some doubt about the applicant's condition and recommends further testing, this may be authorised.

Where the medical report does find the deafness is likely to be due to industrial injuries, you can ask for a further increase to negotiate with insurers. You should give us a copy of the medical report and your views on *quantum*.

### 8.104 Injuries at work

In actions about injuries at work, a civil application should contain

- a statement by the client
- corroborative, or at least supporting, statements
- any sketch or photographs of the locus
- any diagrams or other representation of any industrial process or equipment involved in the accident
- copies of any available reports pertinent to the accident as well as medical reports. Such reports are useful in providing background information and in highlighting breaches in duty.

You can apply for an increase in authorised expenditure to **£550** to apply for civil legal aid. You can request a further increase for any necessary reports.

### 8.105 Post-traumatic stress disorder

Requests for increases in relation to this disorder are usually made to get a psychiatric or psychological report in support of any claim. These reports should generally not be obtained until all liability issues have been dealt with, since they are concerned with *quantum* rather than liability. A rough estimate of *quantum* is needed as an increase in expenditure may not be justified if the value of the case is below £1,500.

An increase of **£650** is usually sufficient to cover the cost of getting and considering a report.

## 8.106 MRSA

In cases where MRSA may have been contracted during medical treatment and damages are being sought, a civil legal aid application needs to contain

- a statement from the applicant
- a supporting statement speaking to the facts and circumstances
- a report on liability addressing whether the hospital was at fault and, in particular, whether guidelines were in place and being complied with
- a report on causation that should confirm the applicant contracted MRSA, and
- a copy of any guidance issued by the relevant hospital or healthcare trust in relation to MRSA at or since the relevant time.

We may grant an increase in authorised expenditure to **£850**. If any reports will cost more than this you can ask for a further increase.

## 8.107 Medical negligence

For an increase for this topic we strongly recommend you use templates 54 to 56.

## 8.108 Other types of professional negligence

We need the same basic information in support of a request as in reparation (see paragraphs 8.94 to 8.97) and you should address liability first.

Requests for increases in cases of professional negligence other than medical negligence (for example, solicitors, surveyors, architects) follow much the same pattern, although medical records will not normally be involved. (There will be a few, however, where medical evidence is needed, if a claim is made relating to mental or physical injuries sustained because of the negligence.) A report from an appropriate specialist will always be needed in support of an application for legal aid.

## 8.109 Tobacco claims

Increases in authorised expenditure can be granted to enable applicants to

- intimate a claim
- get a medical report and
- lodge a civil legal aid application.

An increase to a maximum of **£600** is usually sufficient for these purposes.

## 8.110 Vibration white finger

You can ask for increases for vibration white finger cases to

- confirm an applicant's employment history with the Inland Revenue
- intimate claims to the appropriate employer's liability insurers
- identify and take statements from fellow employees and
- get medical reports.

There is little point in pursuing a claim until an applicant's medical condition has been established and an initial increase can be granted to about **£500** to enable you to get a specialist report.

If a satisfactory medical report has been obtained, we may grant a further increase to enable other aspects of the claim to be pursued.

- If the medical report does not find that the condition is likely to be due to industrial injuries, you can apply for a further increase to allow a second opinion.
- If the specialist is in some doubt about the applicant's condition, and recommends further testing, this may be authorised.

## **8.111 Reparation – drugs-related cases**

### **8.112 Steroids**

Requests for increases need to address the following issues –

- the nature of the condition which led to the steroids being prescribed
- when the steroids were first prescribed
- the advice given when they were prescribed
- the information about the steroids given on the packaging or in leaflets enclosed with the drugs
- what the applicant would have done if they had been told about the potential side effects
- the loss or injury sustained, including information to show when the problem first became known to the applicant.

We also need

- information to show the problems suffered are a recognised side effect of steroids and
- details of whether a doctor has confirmed the diagnosis.

If these matters are all addressed satisfactorily, an increase of **£500** upwards can be granted for obtaining a Hunter v Hanley report.

### **8.113 Vaccine damage**

Vaccine damage claims arise when people suffer symptoms and problems following vaccination. Adults qualify if vaccinated during an outbreak of the disease. It is not necessary to show negligence but disability of at least 60% has to be shown. You can ask for increases in authorised expenditure to allow reports to be obtained to satisfy this 60% rule.

## **8.114 Sexual offence prevention order**

For an increase for this topic we strongly recommend you use template 57.

### **8.115 Small claims**

The Act excludes small claims processes at first instance from civil legal aid. However, advice and assistance can be used to provide advice on preparing a small claim although, as in any other type of action, it cannot cover representation.

Under the rules on property recovered or preserved, you would be expected to take your fee from any property recovered or preserved unless you make a successful application under regulation 16(3) to waive that rule.

In general, it would be unreasonable to give any increase where the value of the matter in dispute is under £180, or to authorise expenditure amounting to more than one-third of the value of the claim. There may, however, be special circumstances and each case has to be considered on its own merits. The value of the claim must be stated.

If the applicant is a defender in a small claims action, you must tell us whether the debt is denied or admitted.

## **8.116 Social security**

## **8.117 Department for Work and Pensions decision**

For an increase for this topic we strongly recommend you use template 58.

## **8.118 Appeals to the Social Security Commissioner and Child Support Commissioner**

Appeals can be made to the Social Security Commissioner and the Child Support Commissioner. Civil legal aid is available to pursue and defend such appeals. Civil legal aid is only available in cases before the Commissioner where the right of appeal is to the Court of Session.

Advice and assistance is available to advise on appeals and to submit legal aid applications. It is not available to initiate such appeals but special urgency cover under regulation 18 may be available. The civil legal aid applications will have to give detailed grounds of appeal and may involve extensive photocopying.

In some difficult or complex cases, counsel's opinion may be needed. Each application for an increase to cover counsel's opinion will be considered on its own merits, and will not be granted automatically if the sole justification is that the Department for Work and Pensions is represented by counsel. You should also refer to chapter 7, paragraphs 7.1 to 7.4 on the employment of counsel.

Where the Social Security Commissioner decides that a case should be sent back to the Appeals Service for a decision to be taken by a tribunal, civil legal aid does not continue for appearance at the tribunal. Advice and assistance is therefore available to provide guidance to the applicant at the tribunal stage only.

For an increase for this topic we strongly recommend you use template 59.

## **8.119 VAT tribunals**

You need our prior authority for proceedings before the VAT and Duties Tribunals for Scotland which consist of an appeal against a penalty imposed under section 60 of the Value Added Tax Act 1994 or section 8 of the Finance Act 1994. We must be satisfied that it is

- in the interests of justice and
- reasonable

to make ABWOR available.

The factors we have to consider in deciding whether it is in the interests of justice to allow ABWOR to be given include:

- (a) The determination of the issue may involve procedural difficulty or consideration of a substantial question of law, or of evidence of a complex or difficult nature

You must consider this factor with the individual applicant in mind. Is the case before the tribunal so ordinary or straightforward that they could understand it and put forward their own case? Or is it a case where legal argument must be put forward or opposed, or where the evidence of the applicant or opponent is complicated? Is there something in the circumstances of the case relating to law or evidence that makes it special or extraordinary from a lay person's standpoint, so that in fairness to them a solicitor should be available? Examples of issues which could be taken into account are –

- o the numbers and types of witness involved
- o the numbers and types of documents
- o what kind of representation the opponent has – such as a solicitor, personnel department or specialist
- o whether the hearing takes place in Scotland or England.

- (b) The applicant may be unable to understand the proceedings or to state their own case because of age, inadequate knowledge of English, mental illness, other mental or physical disability or otherwise.

Normally, we can expect that an applicant would be able to understand the proceedings and to state their own case. We will consider each case on its merits. However, a statement that the applicant is of low intelligence or is a poor communicator is unlikely to be persuasive unless they come into one of the categories listed above. Examples would be if they have a speech impediment, are deaf or dumb, of advanced years or immature, or they are perhaps an immigrant who has not achieved a working knowledge of English. An argument that the applicant should be allowed to state their case through a solicitor to put them on equal terms with the opponent is unlikely to satisfy this factor.

These factors are not exhaustive of those that we may consider in deciding whether the case is too complex to allow the applicant to present it adequately themselves. If additional factors are present, we may take them into account.

In any request for authority, you should address these issues in appropriate detail.

### **8.120 Watching brief**

Increases are sometimes sought to enable a solicitor to attend a trial or fatal accident inquiry for the purpose of a watching brief on behalf of a client.

We will only authorise increases in rare and exceptional circumstances. Where these exist, you should tell us

- the extent of the attendance
- what experience the person attending will need (for example, whether they are a trainee or assistant)
- the reasons the watching brief is necessary.

### **8.121 Welfare benefit analysis**

We cannot pay you for fees you have paid to an outside agency to get a welfare benefit analysis for your client.

### **8.122 Wills**

The £95 limit should usually be enough to cover drafting a will.

Before agreeing to grant any increase we must be persuaded there is a good reason to use public funds for this, as drafting a will is normally a voluntary act. If you satisfy us that the use of public funds for this is reasonable, we will consider granting an increase if some specific complexity is involved in drafting the will because of its provisions, or where you have to travel to the testator's home or hospital.

# Templates and Category Codes

**You should use this list to check that you can apply for a template increase in authorised expenditure when work is under a particular Category Code. The table lists each template and which Category Codes apply to that template.**

**Effective 1 May 2007**

This edition includes changes notified in Advice and assistance reforms update 7.

Template Code	Template case category	Category code	Category code description
1	Anti-social behaviour orders	ASBO	Anti-social behaviour orders
2	Asylum	IMM	Immigration
3	Asylum appeals	IMM	Immigration
	Child abduction – applications under the Hague Convention (templates 4-6)		
4	<ul style="list-style-type: none"> <li>Streamlined</li> </ul>	HAG	Hague convention applications
5	<ul style="list-style-type: none"> <li>Defend</li> </ul>	HAG	Hague convention applications
6	<ul style="list-style-type: none"> <li>Appeal</li> </ul>	HAG	Hague convention applications
7	Child Support Agency and the Child Support Act 1991 - Appeal	CHSC	Child Support Commissioners
8	Applying for civil legal aid	FLA	Full civil legal aid
9	Criminal injuries compensation appeals	CICA	Criminal Injuries Compensation Authority
	Crofting (templates 10-18)		
10	<ul style="list-style-type: none"> <li>Resumption of crofting land</li> </ul>	CROF	Crofting
11	<ul style="list-style-type: none"> <li>Access rights</li> </ul>	CROF	Crofting
12	<ul style="list-style-type: none"> <li>Rights to purchase crofts</li> </ul>	CROF	Crofting
13	<ul style="list-style-type: none"> <li>Acquisition by cottar of holding</li> </ul>	CROF	Crofting
14	<ul style="list-style-type: none"> <li>Crofting land</li> </ul>	CROF	Crofting
15	<ul style="list-style-type: none"> <li>Decrofting applications</li> </ul>	CROF	Crofting
16	<ul style="list-style-type: none"> <li>Apportionment of common grazings</li> </ul>	CROF	Crofting
17	<ul style="list-style-type: none"> <li>Succession to crofts</li> </ul>	CROF	Crofting
18	<ul style="list-style-type: none"> <li>Bad husbandry</li> </ul>	CROF	Crofting
19	Curators ad litem	CURA	
	Divorce, dissolution of civil partnership and family matters (templates 20-31)		
20	<ul style="list-style-type: none"> <li>Family (divorce/dissolution of civil partnership) – financial assets over £50,000, and issues to resolve involving children of the relationship</li> </ul>	CHCI	Children (Scotland) Act – Part I, Part II Chapters 1 and 4, Part III and Part IV
		CNT	Contact
		CVPT	Civil partnerships
		DIV	Divorce
		FAM	Family/matrimonial
		RES	Residence
		SEP	Separation
21	<ul style="list-style-type: none"> <li>Family (divorce/dissolution of civil partnership) – financial assets over £50,000</li> </ul>	CVPT	Civil partnerships
		DIV	Divorce
		FAM	Family/matrimonial
		SEP	Separation
22	<ul style="list-style-type: none"> <li>Family (divorce/ dissolution of civil partnership) – financial assets of £50,000 or less and issues to resolve involving children of the relationship</li> </ul>	CHCI	Children (Scotland) Act – Part I, Part II Chapters 1 and 4, Part III and Part IV
		CNT	Contact

Template Code	Template case category	Category code	Category code description
		CVPT	Civil partnerships
		DIV	Divorce
		FAM	Family/matrimonial
		RES	Residence
		SEP	Separation
23	<ul style="list-style-type: none"> <li>Family (divorce/ dissolution of civil partnership) – financial assets of £50,000 or less</li> </ul>	CVPT	Civil partnerships
		DIV	Divorce
		FAM	Family/matrimonial
		SEP	Separation
24	<ul style="list-style-type: none"> <li>Contact and residence</li> </ul>	CHCI	Children (Scotland) Act – Part I, Part II Chapters 1 and 4, Part III and Part IV
		CNT	Contact
		COHA	Co- habitee rights under family law
		FAM	Family/matrimonial
		RES	Residence
	<ul style="list-style-type: none"> <li>Minutes of agreement (templates 25-27)</li> </ul>		
25	<ul style="list-style-type: none"> <li>Stage 1 – negotiations</li> </ul>	ALI	Aliment
		CHCI	Children (Scotland) Act – Part I, Part II Chapters 1 and 4, Part III and Part IV
		CNT	Contact
		COHA	Co- habitee rights under family law
		CVPT	Civil partnerships
		DIV	Divorce
		FAM	Family/matrimonial
		RES	Residence
		SEP	Separation
26	<ul style="list-style-type: none"> <li>Stage 2 – drafting, adjusting, registering</li> </ul>	ALI	Aliment
		CHCI	Children (Scotland) Act – Part I, Part II Chapters 1 and 4, Part III and Part IV
		CNT	Contact
		COHA	Co- habitee rights under family law
		CVPT	Civil partnerships
		DIV	Divorce
		FAM	Family/matrimonial
		RES	Residence
		SEP	Separation
27	<ul style="list-style-type: none"> <li>Stage 3 – implementation and enforcement</li> </ul>	ALI	Aliment
		CHCI	Children (Scotland) Act – Part I, Part II Chapters 1 and 4, Part III and Part IV
		CNT	Contact
		COHA	Co- habitee rights under family law

Template Code	Template case category	Category code	Category code description
		CVPT	Civil partnerships
		DIV	Divorce
		FAM	Family/matrimonial
		RES	Residence
		SEP	Separation
28	<ul style="list-style-type: none"> <li>Adoption</li> </ul>	ADO	Adoption
29	<ul style="list-style-type: none"> <li>Declarator of parentage or non parentage</li> </ul>	ALI	Aliment
		CNT	Contact
		COHA	Co- habitee rights under family law
		DEC	Declarator
		FAM	Family/matrimonial
		SEP	Separation
30	<ul style="list-style-type: none"> <li>Assumption of parental rights or responsibilities</li> </ul>	ALI	Aliment
		CHCI	Children (Scotland) Act – Part I, Part II Chapters 1 and 4, Part III and Part IV
		CNT	Contact
		DIV	Divorce
		FAM	Family/matrimonial
		RES	Residence
		SEP	Separation
31	<ul style="list-style-type: none"> <li>Aliment</li> </ul>	ALI	Aliment
		CNT	Contact
		FAM	Family/matrimonial
Employment tribunals (templates 32-33)			
32	<ul style="list-style-type: none"> <li>Stage 1 – advice and assistance only</li> </ul>	EMP	Employment
		ET	Employment tribunals
33	<ul style="list-style-type: none"> <li>Stage 2 – ABWOR</li> </ul>	EMP	Employment
		ET	Employment tribunals
34	European agreement on the transmission of applications for legal aid	EURO	European agreement
35	Failure to obtemper court orders	FTO	Failure to obtemper/contempt of court
		VAR	Variation
36	Fatal Accident Inquiries	FAI	Fatal accident inquiry
		REP	Reparation – personal injury
		REPO	Reparation other/damages
37	Guardianship order	AISA	Adults with Incapacity (Scotland) Act
		MENO	Mental Health Act - Care and Treatment Act
Housing (templates 38-41)			
38	<ul style="list-style-type: none"> <li>Housing benefit</li> </ul>	HBEN	Housing benefit
		HLES	Homelessness

Template Code	Template case category	Category code	Category code description
		LDTN	Landlord and tenant
39	<ul style="list-style-type: none"> <li>Appeal against decision of the Independent Appeal Service</li> </ul>	BEN	Benefits
		BENA	Benefit appeals and reviews
		HBEN	Housing benefit
40	<ul style="list-style-type: none"> <li>Eviction</li> </ul>	EVIC	Eviction
		LDTN	Landlord and tenant
		MRA	Mortgage Rights (Scotland) Act
41	<ul style="list-style-type: none"> <li>Dampness and housing repair claims</li> </ul>	LDTN	Landlord and tenant
		REPO	Reparation other/damages
Interdict (templates 42-44)			
42	<ul style="list-style-type: none"> <li>Interdict against abuse</li> </ul>	INT	Interdict
		NHO	Non-harassment order
43	<ul style="list-style-type: none"> <li>Other interdicts</li> </ul>	INT	Interdict
		NHO	Non-harassment order
44	<ul style="list-style-type: none"> <li>Breach of interdict</li> </ul>	BOI	Breach of interdict
45	Judicial review (including judicial review of Board decisions)	JR	Judicial review
Mental Health (Care and Treatment)(Scotland) Act 2003 (templates 46-47)			
46	<ul style="list-style-type: none"> <li>Increase 1</li> </ul>	AISA	Adults with Incapacity (Scotland) Act
		MENO	Mental Health Act - Care and Treatment Act
47	<ul style="list-style-type: none"> <li>Increase 2</li> </ul>	AISA	Adults with Incapacity (Scotland) Act
		MENO	Mental Health Act - Care and Treatment Act
48	Naturalisation as a British citizen	IMM	Immigration
49	Non-harassment orders	INT	Interdict
		NHO	Non-harassment order
50	Payment actions	PAY	Payment
51	Recovery of heritable property (mortgage rights)	EVIC	Eviction
		MRA	Mortgage Rights (Scotland) Act
		RHP	Recovery of heritable property
Reparation (templates 52-56)			
52	<ul style="list-style-type: none"> <li>Personal injuries – claim for damages between £1,500 to £10,000</li> </ul>	REP	Reparation – personal injury
53	<ul style="list-style-type: none"> <li>Personal injuries – claim for damages exceeding £10,000</li> </ul>	REP	Reparation – personal injury
54	<ul style="list-style-type: none"> <li>Medical negligence report 1</li> </ul>	MEDN	Medical negligence
		REPO	Reparation other/damages
55	<ul style="list-style-type: none"> <li>Medical negligence report 2</li> </ul>	MEDN	Medical negligence
		REPO	Reparation other/damages
56	<ul style="list-style-type: none"> <li>Medical negligence report 3</li> </ul>	MEDN	Medical negligence

Template Code	Template case category	Category code	Category code description
		REPO	Reparation other/damages
57	Sexual offence prevention order	SOA	Sex Offenders Act
	Social security		
58	<ul style="list-style-type: none"> <li>Department for Work and Pensions decision (or a decision by a council for housing or council tax benefit)</li> </ul>	BEN	Benefits
		BENA	Benefit appeals and reviews
		HBEN	Housing benefit
59	<ul style="list-style-type: none"> <li>Appeal to Social Security Commissioner</li> </ul>	BEN	Benefits
		BENA	Benefit appeals and reviews
		SSC	Social security commissioners - appeal