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To: All legal aid practitioners

Direct dial number: **0131 240 1985**

Your ref:

Please quote the department above and  
our reference: 03/2005

30 March 2005

***You should ensure that all colleagues who undertake legal aid work  
are made aware of the content of this mailshot.***

This mailshot contains:

- Advice and assistance guidance– seeking requests for increases in authorised expenditure
- Guidelines on Vulnerable Witnesses – sanction in legal aid cases – effective 1 April 2005

**1. ADVICE AND ASSISTANCE - GUIDANCE ON SEEKING REQUESTS FOR INCREASES  
IN AUTHORISED EXPENDITURE**

In order to simplify the process for seeking requests for increases in authorised expenditure in a number of key areas, guidance notes for certain increase requests have been circulated to the profession. This approach gives greater certainty as to the subject matter of the increase request and reduces administration for both the solicitor and the Board. Two sets of guidance have already been issued. In August 2003 we issued guidance notes dealing with immigration and asylum cases (we anticipate issuing revised guidance on these matters in April 2005) and in May 2004 guidance notes covering reparation claims, family law matters and employment tribunal cases were issued.

We have now prepared further guidance notes covering:

- aliment
- contact and residence
- family law where there are financial assets over £50,000 and issues to be resolved involving children of the marriage
- family law where there are financial assets of less than £50,000 and there are issues to be resolved involving children of the marriage
- criminal injuries compensation applications
- dampness and housing repairs
- interdicts against abuse
- other interdicts
- eviction
- recovery of heritable property in terms of mortgage rights
- housing benefit
- Social Security matters
- restoration of driving licences.

The Board would encourage practitioners to make use of these guidance notes which are enclosed. They substantially simplify the process for seeking requests for increases in authorised expenditure and give a degree of certainty about the level of funding that may be made available. We believe that their use benefits everyone.

**A. ADVICE & ASSISTANCE FOR FAMILY LAW MATTERS**

The four guidance notes deal with aliment, contact and residence, cases where there are financial assets over £50,000 and there are also issues involving children and cases where the financial assets are less than £50,000 but there are issues to be resolved involving children.

The solicitor only has to make a single increase at the outset of the case and does not need to return to the Board for further increases. The figures chosen were considered to be reasonable ceilings on expenditure for the work involved in straightforward cases. Where reports need to be obtained that are likely to cost more than the figures shown in the guidance notes, requests may be made for additional funding for this purpose. If the case is not straightforward and has particular complexities, additional funding can be sought from the Board.

**B. ADVICE AND ASSISTANCE FOR CRIMINAL INJURIES COMPENSATION APPLICATIONS**

The guidance note deals with criminal injuries compensation applications where the original application has been refused. If reports need to be obtained that are likely to cost more than the figures shown in the guidance note, a request for additional funding may be made.

**C. ADVICE & ASSISTANCE FOR DAMPNESS AND HOUSING REPAIRS**

The guidance note deals with claims arising from damp and/or inadequate housing. By using the guidance notes the solicitor will only have to make a single increase request at the outset of the case. If the case is not straightforward and additional funding is required, a request for such additional funding may be made to the Board.

**D. ADVICE & ASSISTANCE IN INTERDICT CASES**

The first of the guidance notes deals with interdicts against abuse while the second guidance note deals with other forms of interdict.

In both cases the figures chosen were considered to be reasonable ceilings on expenditure for the work involved. By using the guidance notes a single increase request at the outset of the case is all that is needed to take matters forward.

**E. ADVICE & ASSISTANCE FOR RECOVERY OF HERITABLE PROPERTY**

The first guidance note deals with actions for recovery of heritable property raised by landlords. The second guidance note deals with actions for recovery of heritable property under the Mortgage Rights (Scotland) Act 2001. The figures chosen for ceilings on expenditure were considered to be reasonable for the work to be undertaken in relation to these matters.

**F. ADVICE & ASSISTANCE FOR BENEFITS AND SOCIAL SECURITY**

The first guidance note deals with claims for housing benefit, both in relation to initial queries on housing benefit and appeals against a decision of the Independent Appeals Service.

The second guidance note covers Social Security issues with particular guidance on reviewing decisions of the Department of Work & Pensions and appeals to the Social Security Commissioner.

## G. ADVICE & ASSISTANCE FOR RESTORATION OF DRIVING LICENCES

The guidance note deals with petitions to the court for restoration of a driving licence. It is important to remember that in these cases the Board's prior authority is needed before ABWOR can be made available. The initial limit of authorised expenditure should therefore be used to get information to show it is reasonable to grant ABWOR. The guidance note then allows the solicitor to submit a single increase request to cover all issues in relation to the processing of the petition.

Please let us know if you have any concerns about this guidance.

## 2. GUIDELINES FOR VULNERABLE WITNESSES - SANCTION

The Vulnerable Witnesses (Scotland) Act 2004 is being implemented incrementally beginning from 1 April 2005 with provisions relating to child witnesses in High Court and sheriff court solemn cases and in the consideration of grounds of referral to a children's hearing by a sheriff court.

The attached guidance note is to assist practitioners seeking the appropriate sanction from the Board to use special measures to assist vulnerable child witnesses when they are giving their evidence.

The Scottish Executive has published a booklet providing a brief guide to the Vulnerable Witnesses Act. They have sent copies to legal practitioners. The booklet and further information on implementation of the Act is available on their Vital Voices website on [www.scotland.gov.uk](http://www.scotland.gov.uk)

### Who to contact if you have any questions:

- For further information regarding any of the issues in this letter, please contact the appropriate Board department or for:
  - advice and assistance guidance on requests for increases in authorised expenditure – contact Catriona Whyte, Head of Legal Services (Applications), tel 0131 240 2088
  - guidelines on vulnerable witnesses - Tom Murray, Director of Legal Services, tel 0131 240 2092
- Please tell us if the firm or address details we have used are incorrect. You should notify our Receipts and Payments Department in writing of any changes in address or practitioner details. If you have any queries on mailing addresses please contact: *Receipts and Payments on 0131 240 2080*
- If you wish to obtain copies of any of our publications, please contact: *Communications on 0131 240 1985.*
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