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Case Management and Client Care

*Quality Mark Briefing No.8
1st May 2003*

All Quality Mark levels

**advice
services
alliance**

This briefing is a resource for your whole organisation. Please ensure that every member of staff involved in Legal Aid or Quality Marked work has access to it.

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DISCLAIMER

This briefing has been checked and agreed for accuracy by the Legal Services Commission (LSC). It is not a substitute for reading the relevant documentation in full nor does it constitute legal advice. The Quality Mark is still evolving, and therefore managers and staff will need to take responsibility for ensuring that they comply with the latest requirements at their particular level. Each briefing reflects the position at the date it was published. Organisations should get further up-to-date advice on specific topics covered in briefings either from their network, their LSC regional office or CLS Support.

CLS Support is run by the Advice Services Alliance. ASA is the representative body for national advice networks in the UK. ASA is independent of the Legal Services Commission.

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Making the best use of this briefing

We are aware that some of our briefings are fairly lengthy documents. Please do not feel that you are obliged to read the whole briefing from cover to cover – the headings on our contents page will point you towards the major themes under discussion.

The term “Legal Aid” is used generically in this briefing to cover all/any civil and family legal advice/assistance paid via the CLS Fund. The term “contract work”, unless otherwise qualified, refers only to work carried out under the General Civil Contract, rather than other contract types such as mediation or methods of delivery contracts.

Further sources of support and guidance

If you need further guidance on any of the issues covered in this briefing, please contact your network, the Legal Services Commission or the CLS Support consultancy line – see the pages at the back of this briefing for contact details.

You may come across the telephone symbol  at various points in the text which deal with what we regard to be a complex issue. The symbol is there to remind you that we are able to provide further clarification and/or guidance if you need it.

Please note that the What's New pages on ASA's website www.asauk.org.uk provide guidance that highlights and clarifies both new and existing requirements for Quality Mark and General Civil Contract holders.

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1 Introduction

- 1.1 This briefing discusses the Legal Services Commission's (LSC) Quality Mark requirements regarding certain key case management and client care issues at General Help and Specialist levels. Where the briefing refers to requirements that apply at the General Help level, these requirements also apply at the General Help with Casework level unless stated otherwise. Please note that the briefing does not deal with all the requirements at standards E, F and G (ie Running the Service, Meeting the Clients' Needs and Commitment to Quality).
- 1.2 The briefing deals with the following issues:
- recording basic client information;
 - confirming advice in writing that you have provided to the client;
 - procedures for closing a case;
 - updating clients on the progress of their case;
 - providing information on costs (where applicable);
 - ensuring confidentiality and privacy;
 - obtaining consent from clients for information to be shared with third parties, including auditors;
 - using other organisations/individuals for non-legal services and evaluating these services;
 - maintaining a complaints system;
 - monitoring key dates.
- 1.3 The documents referred to in this briefing are:
- the **Quality Mark Standard** (first edition April 2000) ('QMS')
 - The **General Help standard Workbook** (first edition April 2000) ("GHW")
 - The **Specialist Quality Mark standard** (first edition April 2002) ("SQM")
 - The **Specialist Quality Mark Guidance** (first edition April 2002) ("SQM Guidance")
- 1.4 The Specialist Quality Mark (SQM) replaced the Legal Aid Franchise Quality Assurance Standard (LAFQAS) as the LSC's quality standard for holders of Legal Aid contracts on 30th April 2002. The SQM is now used in place of LAFQAS for all Specialist level Quality Mark applications, whether for contracted work or not.
- 1.5 Organisations wishing to apply for an SQM for the first time should use the first edition of the SQM and associated application form now available from all LSC Regional Offices and on the LSC website (www.legalservices.gov.uk).

2 Why keep case records?

2.1 Clear case records should enable other caseworkers, supervisors, file reviewers and auditors to easily establish:

- what a client has told you;
- what you have advised them;
- any action taken and by whom;
- what remains to be done and by whom;
- any relevant developments;
- any important deadlines and key dates.

2.2 Having access to this information, and copies of any relevant documents such as letters to/from third parties, can allow someone else to take over the case at short notice and also allows monitoring of the quality of work to be carried out. Case records can also act as a source of evidence if, for example, the client makes a complaint or takes legal action for negligence against your organisation. For example, a client may allege that your organisation had agreed to contact the Benefits Agency (BA) to notify a change of circumstances on their behalf but failed to do so. In such circumstances, a file note on the relevant date to the effect that you had indeed contacted the BA would provide supporting evidence in your favour.

3 What information about a case does the Quality Mark require you to record?

General Help

3.1 At General Help level you must make case records of “client’s needs, any advice given and the actions to be taken next and by whom” (see General Help requirement F1.2). If it is a “diagnosis only” interview, you do not need to keep such records as you will not be giving advice on rights and entitlements but simply establishing the nature of the issue in order to signpost the client to a service that can assist them further.

Specialist

3.2 You must record “basic information”, unless you are carrying out a diagnostic interview solely for the purpose of signposting (SQM definitions F1.1). In a purely diagnostic interview you would ask questions to identify and clarify the nature of a client’s problem(s), eg does it concern housing disrepair or unpaid benefits? You would in such a case inform the client that you are not attempting to give definitive advice on rights and entitlements but simply establishing the nature of the presenting issue so that the client can identify or access support from someone better placed to help. What constitutes basic information is defined as follows:

“(a) The requirements or instructions of the client.

(b) The advice given and/or action to be taken by the organisation.

(c) The name and status of the person dealing with the matter and who to approach should the client be dissatisfied with the service provided.

(d) Information given and received about methods of case payment and/or case funding”
(SQM requirement F1.1)

4 When does the Quality Mark require you to *offer* confirmation in writing to the client regarding advice provided?

General Help

- 4.1 The General Help standard does not require you to offer your client any written confirmation of information/advice provided. See paragraphs 5.1–5.2 below for guidance on when such an offer may be appropriate.

Specialist

- 4.2 You must offer confirmation in writing in all cases except “where the client is given a diagnostic interview solely for the purpose of signposting” or the exemptions listed in the following paragraph apply (see SQM definitions F1.1).

Exemptions from offering written confirmation

- 4.3 These exemptions apply to one-off telephone advice or where “you can justify that to do so would be prejudicial to the case (eg where the client is detained and so confidentiality of written material may be an issue).” There is a further exemption for criminal practitioners.

5 When does the Quality Mark require you to actually *provide* written confirmation of advice to the client rather than just *offer* it?

General Help

- 5.1 Clients must “receive a clear written record of advice where the agency is taking legal proceedings on behalf of the client and these have commenced” (see General Help requirement F1.8). The Quality Mark does not specify in which other circumstances you should confirm advice in writing, but organisations need to have “procedures” that “identify when information must be confirmed to clients in writing” (see General Help requirement F1.8).
- 5.2 It is for your organisation “to determine when written communication to the client will be necessary and auditors will use this description when looking at the content of client files” (see QMS guidance page 56). Your organisation must therefore determine its own criteria. You could either provide written confirmation in every case or draw up a procedure that takes into account different factors. As good practice guidance, CLS Support suggests possible factors for deciding to give written confirmation might include:

- you want to protect yourself from future allegations of negligence by the client that you didn't advise them properly;
- action is required by the client, especially if they have important details to remember and there is a legal or other deadline for you or the client to meet;
- the case involves complex issues;
- the client appears confused, distressed or unable to take in advice for some other reason;
- the advice is not what the client expects or wants to hear;
- you are charging the client;
- the client finds it easier to read information than to listen to it, due to hearing difficulties or having English as another/second language etc.

Additionally, the client may specifically request written confirmation.

- 5.3 If you do not give a client written confirmation in circumstances where this would normally be required according to your procedures, then you must justify this omission on the file and make a record of the required information (or have one available), ie the information you would otherwise have put in writing to the client.
- 5.4 The General Help standard does not specify the information you should provide in writing to the client. However, if you do not send letters to the client informing them of progress and actions taken on their behalf, "there must be some other way of substantiating the information that the client has received" (QMS guidance page 56), such as a note on the case record.

Specialist

- 5.5 You must provide written confirmation to the client "wherever a file is opened, unless exceptional circumstances apply" (SQM requirement F1.2). "Opening a file" does not necessarily mean the act of writing a client's details on a folder and inserting relevant documents, but merely describes a situation where you give (or expect to give) advice or undertake (or plan to undertake) work on behalf of the client beyond one-off advice (see SQM definitions F1.2). You do not usually need to provide this confirmation in situations where the client simply informed you of their problem and you gave them one-off advice. The obligation arises if you do further work on behalf of the client on the same matter.
- 5.6 Where "a file is opened" the SQM states that you must confirm the following in writing at the earliest opportunity:
- the basic information listed at requirement F1.1 (a)–(d) unless the exemptions discussed in paragraph 4.3 above apply;
 - the information listed in requirement F1.2 (a)–(d);
 - "The name of the individual with whom, and how, the client should raise any problem concerning the service provided" (SQM requirement F1.2 (a));
 - "key dates in the matter" (SQM requirement F1.2 (b)).

In practice most agencies operating under not-for-profit (NfP) contracts that do not go beyond Legal Help level are exempted from F1.2 (c) and (d), as these requirements relate to the provision of particular costs information (see section 9 below).

- 5.7 If you cannot provide the written confirmation straight away, “you must provide what information is available and justify (to the client and to the satisfaction of the auditor) the interval for providing the remainder” (SQM definitions F1.2). So you should not withhold information that the client needs straightaway just because you are waiting to clarify other matters. You would explain what information is outstanding and the reasons for the delay in providing it.

Exceptional circumstances where you do not need to provide written confirmation

- 5.8 Such circumstances might include:

- “client expressly asks not to be informed in writing”;
- “it is not in client’s best interests (eg there is evidence that is prejudicial to the client’s case or would endanger their well-being)”. If a client came to you for advice in relation to a dispute with her/his partner who was subjecting them to domestic violence, you might be putting the client at further risk of violence by sending a confirmation of advice letter to their home;
- “it would be inappropriate (eg in every case for a regular client for whom repetitive work is done and where the relevant information (which remains current) has already been given).”

“You must consider all exceptions on a case-by-case basis and so should not apply exceptions to all cases of a certain type. You must justify the reason on the file and make a record of the required information or have it available”, ie the information you would otherwise have put in writing to the client (see SQM definitions F1.2).

6 What form does the Quality Mark require the written confirmation to be in?

General Help

- 6.1 No detail is given in the Standard at this level. If you think it appropriate, you could choose to adopt the relevant parts of the SQM Guidance summarised in the following paragraphs.

Specialist

- 6.2 You do not need to write a formal letter. You could choose to fill out a summary sheet during the interview or make a record on self-duplicating/carbon paper that the client can take with them. You can also use a combination of documents such as “a business card, a complaints leaflet or summary, or a leaflet covering charging policy, as well as a summary of instructions and advice” (SQM guidance F1.1).
- 6.3 If you do give out standard information in letters or information sheets you will need to demonstrate that you tailored this to the client’s individual circumstances by, for example, “making reference to relevant sections of standard information in a covering letter or form, or by marking the paragraphs that are particularly relevant or to indicate which of the options is recommended” (SQM guidance F1.1).

- 6.4 You need to ensure that the client understands what has been written, so best practice suggests that plain language is used and jargon is avoided. You should make reference to specific information the client has provided about what the issue is and what they would like done about it, not just “thank you for your instructions”. “This is an opportunity to confirm what was agreed, clarify ambiguities and misunderstandings and reduce the possibility of complaints” (see SQM guidance F1.2).

7 Informing a client that you are closing a case

General Help

- 7.1 You must inform the client about the outcome of their case/enquiry where it is known, and note this on the file (see General Help requirement F1.7). You do not have to provide written confirmation of this information, but we suggest that it would be good practice to do so (see paragraphs 5.1–5.4 above).

Points in common between General Help and Specialist levels

- 7.2 You may need to send a letter to the client advising them that you intend to close their case, eg where the client has failed to get back in touch with you in response to a request for further information.
- 7.3 If you inform a client by letter that you are closing their case, consider allowing a few weeks before actually doing so, in order to avoid the bureaucracy of being obliged to re-open it if the letter triggers fresh contact and a request for further assistance (as often happens). This is particularly relevant if you assist clients under Legal Aid contracts, since if you close a matter, report it to the LSC on a Controlled Matter Report Form, and the same client returns later for further advice on the same matter, you will need to record the issue as a new matter start. The client would need to complete a new CW1 and undergo a fresh means assessment etc (please see CLS Support Contracting briefing no. 1, “Separate Matters and Work that Can Count against Contracts”, for further information).

Specialist

- 7.4 Unless the matter does not progress beyond one-off advice or unless the exceptional circumstances discussed in paragraph 5.8 above apply, you must provide the client with written confirmation of the following information:
- what has happened in the case;
 - how this will affect them;
 - what, if anything, you and/or the client must do next;
 - what is happening to their papers and or other items, ie how they are being stored and how the client can get them back;
 - what has happened to any outstanding money involved in the case, eg a losing opponent may pay compensation to the client but write the cheque in the name of the agency. The agency would have to confirm where the money is, the amount involved and the transfer to the client;
 - whether the case or matter should be reviewed and if so when;

- how you will return their original documents/property (unless you agree to store them).

(see SQM requirement and definitions F3.1).

- 7.5 You must also “either confirm that you are ceasing to act and closing the case (eg where you receive no further instructions) or confirm the result of the case including any necessary explanation of terms and consequences” (SQM definitions F3.1 (a)).
- 7.6 Regarding storage of case papers you must clarify:
- what you are keeping;
 - how long you will store them for;
 - the steps and any costs required to retrieve them at any point (see SQM definitions F3.1 (b)).
- 7.7 Finally you must “reconcile all accounts at the end of the case” and return original documents to the client or “confirm safe keeping (including as a minimum, storage duration and how the client can retrieve them at any point)” (SQM definitions F3.1(c)).

8 Updating clients on the progress of their case

General Help

- 8.1 You must have systems to ensure that “clients are kept informed about the progress of a case and in particular, any change in future action” (see General Help requirement F1.7).

Specialist

- 8.2 Unless the “exceptional circumstances” described at paragraph 5.8 above apply you must:
- i) explain to the client “any issues raised in the case and any subsequent changes and proposed action”; and
 - ii) confirm in writing to the client “progress generally (or reasons for lack of progress) at appropriate stages, but not less than every six months” (see SQM requirement F2.2).
- 8.3 You need “to provide information when anything happens to change the status of the case (eg if the chances of success become less or greater...following counsel’s opinion)”, and demonstrate this has been done “by telephone, face-to-face contact and/or by letter” (see SQM guidance F2.2).
- 8.4 You must reconsider eligibility for Legal Aid if there is a relevant material change in your client’s financial circumstances (see SQM requirement F2.5). So, if a client is ineligible for Legal Aid due to their financial means at the time they first approach you for assistance, but subsequently meet the eligibility criteria, you would be able to assist them under contract once you had identified they were eligible (all other things being equal).

- 8.5 If you have correctly assessed a client as being financially eligible for assistance at Legal Help/Help at Court level, but they later become financially ineligible, you may complete work on any matters commenced before this change occurred. As a matter of course, you must make a fresh assessment of a client's means on every occasion you intend to assist them with an issue you intend to open as a new matter, irrespective of whether or not they are a new or existing client (see CLS Support Contracting briefing no. 1, "Separate Matters and Work that can count against contracts"). You must also inform the client in writing if you change the person who is dealing with their case or with whom they should raise problems concerning the service (SQM requirement F2.5).
- 8.6 You do not need to give updating costs information if the exceptional circumstances apply (see SQM requirements F1.1, F2.3 and paragraph 5.8 above).

9 What costs information does the Quality Mark require you to provide where you do not charge the client?

General Help

- 9.1 If you are writing a letter on behalf of a client that simply *threatens* legal action, then you are not under an obligation to discuss costs that might be claimed by the other side. However, you must tell clients who actually intend to embark on legal action, such as issuing or defending proceedings, about the "possibility (however slight) that they may have to contribute towards the costs of the other side" (see QMS guidance page 56 and General Help requirement F1.4). CLS Support strongly recommends that this be done in writing. Otherwise you need only confirm orally and/or in your leaflets/posters that the service you will be providing is free.

Specialist

- 9.2 It will be unusual for non-solicitor NfP organisations to have to supply advance or updated cost information. This is because SQM requirements F1.2 (c) and (d) and F2.3 do not apply in civil cases where there can be no potential liability for costs or you have already advised the client that you will not be making a charge.

Legal Aid funding is non-contributory for the following levels of service (ie eligible clients do not have to pay for it):

- Legal Help (but see exceptions below);
- Help at Court (see same exceptions as for Legal Help);
- Family Mediation;
- Help with Mediation;
- Controlled Legal Representation.

Exceptions

Statutory charge

- 9.3 If you advise at Legal Help level or above in the categories of family, personal injury or clinical negligence, then you will need to inform your client about how the statutory charge could affect them.

- 9.4 However, you do not need to give the above level of updated cost information in:
- “child abduction and Custody Act 1985 cases”;
 - “non-means/non-merits tested cases (public law / child care)”. This covers cases such as local authority applications for Emergency Protection Orders, Care Orders and Supervision Orders. However, in many family cases not involving a public body a contribution will be necessary and applicants will need to try mediation first unless it is not appropriate (see the LSC’s *Focus* magazine, issues 39 and 40, for information on exceptions to the statutory charge in family cases);
 - “registration of certain foreign orders and judgement proceedings” (see SQM definitions F1.2 (c)).

Paying the opponent’s legal costs

- 9.5 Good practice suggests that you need to be fully aware of the costs position relating to any court/tribunal hearing either on which you advise a client about representing themselves or at which you intend to represent on their behalf. Courts sometimes allow advisers who are not solicitors or practising barristers to mitigate on behalf of a client, particularly in debt matters (including rent/mortgage arrears and possession actions) in the Magistrates Court or County Court. Non-legally qualified advisers also commonly represent clients at certain employment tribunals. In these two situations clients need to be made aware that they run the risk of having to pay their opponent’s costs. **NB:** These are only illustrative examples – there may be other situations in which clients run the same risk.

10 What costs information does the Quality Mark require you to provide where the client may have to pay either your organisation or a funder?

General Help

- 10.1 “Where the client may have to pay the funder or the service provider, you must provide:
- clear information about the cost and pricing structure in writing at the start of the case (see General Help requirement F2.1);
 - a range of figures between which the cost of the case is anticipated to fall and tailor the estimate to the client’s situation as more information is known (see QMS guidance page 56);
 - clear costs updates in writing whenever there is a change from the last estimate and at least every six months where clients have to bear the cost of the advice, or contribute towards it (see General Help requirement F2.2);
 - an explanation of the charges and tell clients where they may be able to get the service free if a charge is made for a service (see General Help requirement F2.3).

Specialist

- 10.2 In the event that you are not covered by the exceptions described in paragraph 9.4 above, you must give information on likely overall costs including “any disbursements envisaged and VAT”. The costs advice must be appropriate to the individual case

including (as relevant) agreeing a fixed fee, giving a maximum cost or a forecast within a range of costs, but not giving a blanket estimate for the type of case.

- 10.3 You must also inform the client if you cannot give an accurate assessment of overall costs at the outset. If this is the case you should give your best estimate of overall costs and an accurate estimate of costs to the next stage. Finally, you must explain how the client may be liable for their own costs, eg the statutory charge, or if they lose, the other party's costs. See SQM definitions F1.2 (c) for further information on the matters discussed in this paragraph.

11 Confidentiality

General Help

- 11.1 At all levels of the Quality Mark you are required to treat client information confidentially. At General Help level, the Standard requires that "where access to information is required to be given to a third party the client knows that this may happen" (see General Help requirement F3.1). In practice this means that you must seek the client's written or oral consent for transfer of personal information and note this on the file, unless the reasons to breach confidentiality discussed at paragraphs 11.8–11.13 apply. For information on audits by the LSC or the Office of the Immigration Services Commissioner, please see sections 12 and 13 below.
- 11.2 The guidance indicates that you need written policies and procedures to ensure confidentiality, and that these should identify situations where you may breach it. It gives the examples of prevention of terrorism, child abuse and prevention of harm and states "in these circumstances the client should be informed of the policy" (see QMS guidance page 57), ie that because of the individual circumstances, you will be obliged to inform relevant third parties.

Points in common between General Help and Specialist levels

- 11.3 Other than where consent has been given for an auditor to look at a file, you should generally not reveal to a third party that a client has visited or sought help from you. Possible exceptions to this might include situations where you have begun to advise one party and then their opponent seeks help from you. However, we advise you to contact your national network, Management Committee or professional body such as the Law Society for ways of dealing with such situations (also see CLS Support Quality Mark briefing no. 4, "Conflict of Interest").
- 11.4 You may also need to consider the issue of maintaining confidentiality between different sections of your organisation. For example, if you are a local authority housing advice unit, is the information on your clients' files accessible to the Social Services department? Alternatively, is information held on a caseworker's file in a local authority welfare rights unit accessible to the housing manager dealing with the client's arrears on hostel rent?
- 11.5 **NB:** If you are a solicitor organisation (eg, an NfP organisation that employs practising solicitors), then the Solicitors' Practice Rules apply not only to the solicitor but potentially to all the legal advice and casework carried out at your organisation. So, if you do not want all your work to be the solicitor's responsibility, then you may need to establish a

separate legal entity to demarcate the work that will be the solicitor's responsibility. You will need to discuss any such arrangements in detail with the Law Society in advance. CLS Support will shortly be publishing a briefing, "Employing a Solicitor for the First Time", which will provide further information.

- 11.6 CLS Support suggests that you use a box on your standard client information form to record any particular restrictions on how you may communicate with clients (see Appendix A for a copy of a sample form). As a general principle, a client should be confident that their dealings with you are kept confidential from others, even where there are no particularly pressing circumstances that clearly demand this, such as, for example, a dispute with a partner. However, the more sensitive the matters at stake are, the more important it is that you are discreet.
- 11.7 You should not send a confirmation letter to a client's home or leave a message with a third party or on an answering machine accessible to others unless you have established that this is acceptable. You may consider it appropriate to press 141 before you call, so that people at the client's end cannot find out who has rung. Some organisations have set up their telephone system to automatically withhold the number of the outgoing caller in order to guarantee this confidentiality. Also, when sending letters to clients, ensure that you do not use franking stamps that identify your organisation.

Circumstances that might merit a breach of confidentiality

- 11.8 Example
- A parent at the end of their tether threatens to hurt themselves and their children if they do not get appropriate housing immediately.
- 11.9 Rather than reporting every ill-judged comment to the police, CLS Support suggests that you need to be able to weigh up genuine concerns and make a balanced professional judgment, preferably with input from senior colleagues. You should try to act in accordance with any specific guidance your organisation/advice network provides, as the wrong decision could leave you and your organisation liable to serious civil and/or criminal penalties.
- 11.10 CLS Support suggests that as a minimum you inform clients by poster and/or other written materials that there are certain defined circumstances in which you may or must breach confidentiality. If you advise specific client groups for whom confidentiality is of particular concern (eg young people, those with HIV/Aids or immigration problems), more detailed information and a brief discussion of confidentiality at the start of the interview may help to allay concerns that you might contact third parties without the client's consent.
- 11.11 The following is an excerpt from a confidentiality policy statement for clients used by an organisation that advises homeless families (Kings Cross Homelessness Project). It discusses circumstances in which confidentiality must be breached:

"Occasionally staff have concerns that children may be at risk of abuse. Staff must always act to protect a child if they believe that they are at risk of harm or abuse. This means that if a member of staff has a concern that a child is at risk of physical, emotional or sexual abuse or is neglected, they must report their concerns to Social

Services or the police. The project will always aim to act in partnership with you so that you are able to care for your children as well as possible. The project will always be available to families to discuss any action that they take, and where possible will try to inform parents or carers of children before they take action. The exception would be if they believed a child to be put at risk by this. If you have any concerns please discuss them with a member of the management team. You can contact the management team on the above telephone number.”

- 11.12 **NB:** Information and advice exchanged between you and your client may also be protected by legal professional privilege. This goes beyond the general duty of confidentiality, as it may prevent certain information being disclosed, even in court. The courts have not ruled on the extent to which this applies to non-legally qualified advisers. The view of Citizens Advice (formerly the National Association of Citizens Advice Bureaux) is as follows:

“Although it has not been tested, it is NACAB policy, based on clear legal advice, that trained advisers giving legal advice are protected by legal professional privilege and that anyone opposed to this would have to challenge this view in court.

Following receipt of a witness summons, application may be made to the magistrates court in person, or to the Crown or High Court in writing, to explain that the information has been obtained in the course of a confidential interview and to ask whether the evidence is still required. If the judge or magistrate rules that the evidence must be given, any refusal to go to court will be seen as contempt. Failure to attend may result in a warrant being issued and eventual arrest.

The client should be informed if an adviser receives a summons and the procedures and penalties explained to her/him. It must be made clear that attendance and disclosure of information may be required by the court even if the client objects. In no circumstances should the evidence to be given be discussed with the client.” (See Citizens Advice Bureau Management Information System)

- 11.13 Your organisation may wish to consult “The Guide to the Professional Conduct of Solicitors” (eighth edition, 1999), published by the Law Society. It discusses situations where a solicitor organisation may decide or be required to breach confidentiality. You may also consult it online at www.guide-on-line.lawsociety.org.uk. (See Appendix B for a copy of relevant SQM guidance on breaching confidentiality, which quotes from the “Guide”.)

Specialist

- 11.14 The Specialist standard requires you to have “a confidentiality procedure that covers all information given to the organisation about the client and their case” (SQM requirement F4.1).
- 11.15 “All staff in the organisation who have access to case information (ie not only casework staff)” must understand this procedure. It must include circumstances in which a breach of confidentiality should be considered and the process that must be followed at that point.
- 11.16 You may decide to go further and actually outline the issues that the caseworker “must consider (and document) in the specific circumstances (eg that they must consider the

likelihood and danger of further abuse if they do not disclose relevant information in a case involving children), and/or it may involve requiring the caseworker to justify their decision (before the breach) to their supervisor or immediate superior/manager” (SQM guidance F4.1).

- 11.17 The SQM Guidance suggests that you should have a procedure that contains a “comprehensive list of circumstances in which the caseworker should consider whether to override client confidentiality” (see SQM guidance F4.1). These situations are likely to include the ones listed in “The Guide to the Professional Conduct of Solicitors” (see Appendix B).

12 Do you need to obtain consent from clients for the LSC to audit their files?

General Help

- 12.1 “Clients need to be made aware that it is possible their file may be audited” (General Help requirement E1.1). There is a duty to treat client information confidentially and let clients know that a third party may be given access to it under particular circumstances. Therefore you must inform clients, including those making one-off enquiries, of the possibility that the LSC or other third party may look at their records for audit purposes, and have evidence that you have done so (see General Help requirement F3.1). **NB:** Citizens Advice Bureaux are not obliged to seek client consent to General Help level audits, since, following negotiations between Citizens Advice and the LSC, it has been agreed that LSC auditors are bound by the Citizens Advice confidentiality policy, and are therefore not regarded as third parties.
- 12.2 There is no duty to obtain written consent to audit from a client. Either a copy of a signed generic “consent to discuss case with third parties” form or a case note indicating consent has been given orally will provide adequate evidence to an auditor. Where a client expressly refuses to give consent, the LSC will not include their records/files within the audit sample. However, auditors do need a sufficient sample of work to audit. Therefore, where the number of cases in which clients have refused to give their consent is significantly higher than is usual for the type of work you do, the auditor may want to speak to the caseworker(s) concerned to discuss the manner in which the procedure for seeking consent is implemented.

Points in common between General Help and Specialist levels

- 12.3 Under the terms of the General Help standard agreement, LSC auditors and also their agents, such as appointed researchers, are entitled to look at case files. The General Help and SQM agreements state “any of our functions under this agreement may be performed by a body authorised by us” (see QMS page 109, point 10 and SQM, page 112, point 10 respectively).

Specialist

- 12.4 The LSC has a statutory right to inspect files relating to work paid for by the CLS Fund, ie Legal Aid cases. A client assisted under the Legal Aid scheme is regarded as having given the required consent by allowing you to perform work paid for by the CLS Fund on

their behalf. It is good practice, but not a requirement, to alert the client of this (SQM guidance F4.2). However, if the client refuses to give their consent to an audit, although you may still advise them, you will not be able to count any work you carry out against your contract.

- 12.5 If you have an SQM in, eg, welfare benefits, which covers work you carry out under contract, you may also be carrying out welfare benefits work that is not funded under the Legal Aid scheme. In such cases, you are under no obligation to seek clients' consent to LSC audit. However, if you want your Quality Mark to cover private fee-paying work, or work that is funded from non-LSC sources such as a local authority etc, you must seek consent to audit as usual.
- 12.6 If your Quality Mark (or application) covers non-LSC funded cases you need a process for obtaining the client's express consent for the LSC to audit these cases, including one-off advice (see SQM definitions F4.2). So in relation to Legal Aid cases, consent is implicit but in relation to non Legal Aid cases the client's consent must be expressed.
- 12.7 Consent to an LSC audit is additional to the consent you need in order to store client information or to communicate with third parties on your client's behalf. You could either ask your clients to sign and return a single consent form that covers all consent requirements or send a client care letter "where the client is asked to sign and return a copy, possibly having been asked to mark any passages to which they do not agree or consent" (see SQM guidance F4.2). A model consent to audit form is provided on page 97 of the SQM Guidance as an aid.
- 12.8 Auditors may check the effectiveness of your process for seeking consent by looking at the number of cases in which clients have refused to give their consent and assessing the reasonableness of this figure as a proportion of what might be expected for the type of work being carried out (see SQM guidance F4.2).

13 Audits by the Office of the Immigration Services Commissioner

- 13.1 Advisers who provide immigration/asylum advice are generally required to operate within the Commissioner's Code of Standards. Non-solicitor NfP organisations can apply for an exemption from the requirement to register with the Office of the Immigration Services Commissioner (OISC), but they still fall within the OISC regulatory framework. The Commissioner's Code of Standards requires that advisers' files are made available for inspection with the client's consent (see Code of Standards, paragraph 30).
- 13.2 Following discussions between the Information Commissioner (who enforces the Data Protection Act) and the OISC on the position of its auditors and their right to have access to files under the Data Protection Act, the OISC has adopted the following approach:
 - negative procedure – the OISC assumes its staff can look at a client's file unless the adviser or the client instructs them otherwise;
 - best practice procedure – the OISC suggests that all advisers obtain written consent from their clients permitting the OISC to gain access to the files.
- 13.3 If you are a solicitor agency, the Law Society is ultimately responsible for regulating your

immigration/asylum work, and you do not have to register with the OISC or apply for exemption from registration. However, the Code and Guidance can be followed as good practice. Please refer to the contacts page at the end of this briefing for the OISC's contact details

14 Data Protection Act

- 14.1 The Data Protection Act (1998) places a number of responsibilities on organisations that collect personal information. It covers both written and computerised information held on record, and you must notify the Information Commissioner if you record clients' details on a computer. Notification replaces what was previously called "registration" under the 1984 Act. If you do not comply with the Act you risk being subject to prosecution and a civil claim.
- 14.2 The Act imposes a responsibility to ensure that any third party with whom you share information, eg counsel or other experts, also maintains "the individual's right to privacy" and protects their "personal data from unauthorised disclosure or access". Keeping information confidential includes taking reasonable steps to prevent unauthorised access by physical means or via IT (see SQM guidance F4.1).
- 14.3 You will normally need express consent from the client to store sensitive personal data, which is defined in the Act as information regarding:
- racial or ethnic origin;
 - political opinions;
 - religious beliefs;
 - trade union membership;
 - health;
 - sexuality and sex life;
 - offences and convictions.

You would usually obtain the consent in writing on a pro forma. In the case of telephone enquiries, you can seek consent orally but you should note that you have done this in your records. Please refer to the contacts page at the end of this briefing for the Information Commissioner's contact details.

15 Ensuring privacy in meetings with clients

General Help

- 15.1 You must make arrangements "to ensure privacy in meetings with clients, where required" (see General Help requirement F3.2).

Specialist

- 15.2 The Standard requires you to have "arrangements in place to ensure privacy in meetings with clients" (see SQM requirement F4.3). In addition, "you must also be able to demonstrate to the auditor that you have facilities (or that you make efforts) to discuss

matters with the client in a private location” (see SQM definition F4.3).

- 15.3 Where you share an office or are required to take instructions or give advice in a public place (eg in a court), it is important that you demonstrate the steps you take to ensure privacy. The Guidance suggests ensuring that the client is “comfortable with the arrangement” and that “the caseworker and the client cannot be overheard by anyone from outside the organisation, or within the organisation if the client specifically requests that this is so” (SQM guidance F4.3).

16 Using the services of other organisations or individuals

- 16.1 This relates to the use of third parties such as interpreters or experts who carry out a service on behalf of a client whilst you maintain overall responsibility for assisting with their case. This is distinct from passing overall responsibility for the matter/case concerned to another advice provider.
- 16.2 There will be occasions when you are advising a client and need to seek further advice or assistance from external parties. These services could be legal or non-legal in nature. Examples include:
- non-legal service providers such as interpreters, surveyors, doctors, environmental health officers, etc;
 - legal service providers such as barristers, solicitors, second-tier/specialist advice support services.
- 16.3 Instances where you pass a case to a barrister for a written opinion or to provide representation at court would fall under the Quality Mark requirements relating to services provided by others rather than referrals, as in most circumstances the agency will retain responsibility for the conduct of the case.

General Help

- 16.4 You must select suppliers using clear criteria including the principles of equal opportunity (see General Help requirement F4.1). The Standard does not specify a list of areas that need to be covered in an equal opportunities policy, but you must preclude unlawful discrimination due to sex, race or disability. The LSC recommends that as a matter of good practice, your policy should also cover the other forms of discrimination listed in the SQM (see para 16.11 below).
- 16.5 The General Help guidance suggests that selection criteria should include:
- manner with client;
 - speed of response;
 - previous experience;
 - field of expertise;
 - reputation;
 - value for money.
- (see QMS guidance page 58)

- 16.6 If you compile a list of service providers that meet the requirements, this will enable you to select an appropriate one more easily. It is not a requirement to have a central record of approved service providers and any evaluation records, but the LSC suggests that you could do so (QMS guidance page 58). CLS Support considers that a manual or computerised central record would help ensure that different members of staff have ready access to the same information.
- 16.7 The other requirements are that:
- if the client is to be charged for the service you must inform them at the outset (see General Help requirement F4.1);
 - the client must know who will be doing the work and be consulted about this if applicable (see General Help requirement F4.2);
 - the service provided externally must be evaluated and this needs to be recorded (see General Help requirement F4.3).

Points in common between General Help and Specialist levels

- 16.8 When you choose an external service provider (referred to as “suppliers” in the SQM), you are expected to use an objective assessment process that complies with equal opportunities and has clear selection criteria. You can deal with equal opportunities issues in a policy specifically designed to meet this requirement, or have one policy that covers all Quality Mark equal opportunities requirements, including those that relate to:
- service provision (see General Help and SQM requirement A3.1);
 - selection, treatment and behaviour of staff section (see General Help requirement D.1, SQM requirement D1.3).
- 16.9 You will need to:
- inform and /or consult with the client over who will be providing the service and advise the client of any possible charges for the service at the outset;
 - give clear (preferably written) instructions to the service provider;
 - evaluate and record how well the service provider complied with the instructions;
 - decide following feedback whether you wish to change your list of approved service providers. We suggest you allocate someone to be responsible for monitoring the process and to act on evaluations and their recommendations. You could take any required action, eg removing a supplier from your approved list, after consultation at a staff meeting or with the relevant caseworkers.
- 16.10 Specialist support (second-tier) advice lines, whether funded by the LSC or not, are also subject to the requirements in this section as they are expressed at each level.

Specialist

- 16.11 You must ensure that a “written non-discrimination policy is in place and is available to all casework staff, covering the instruction of counsel or other experts, and precluding discrimination on the grounds of race, colour, religion or national origin, sex, marital status or sexual orientation, disability, age or religion” (SQM requirement F5.1).
- 16.12 Your policy must outline the action to be taken if any breaches occur (ie discrimination against suppliers) (SQM definitions F5.1).

- 16.13 You may adopt an existing equal opportunities policy as a model, eg The Law Society's or Citizens Advice's, but should document that this is what you are doing and keep a copy of the policy used, eg Law Society policy, and ensure it meets all relevant Quality Mark requirements (see SQM guidance F5.1).

Instructions to service provider

- 16.14 You must provide "clear, accurate and comprehensive" instructions (see SQM requirement F5.5). SQM definitions F5.5 provide a definition of what these instructions should include.
- 16.15 The Standard does not expressly require the instructions to be in writing, but the Guidance suggests that they would normally be so, save in emergencies (see SQM guidance F5.5). If you have given oral instructions, we advise you to confirm them in writing as soon as possible to reduce the chances of any misunderstandings.

Justifying which service provider to use

- 16.16 Unless the exceptions in paragraph 16.17 below apply, you must be able to show that you selected all service providers because of one (or more) of the following four reasons:
- they were on your approved service providers register for which you have inclusion criteria, ie "at least quality of service, cost or value for money, speed of response and expertise or the fact that they too have the Quality Mark";
 - they had been recommended by another organisation that used the above selection criteria;
 - they had the Quality Mark;
 - you had good reason for wanting to instruct them even though you had not used them previously and you later assessed their performance against the criteria to see if they should join your approved service providers register (see SQM definitions F5.2).
- 16.17 If you need to use a new service provider on a one-off basis, you do not have to use one of the four reasons above but must make a note of the circumstances on the file (see SQM definitions F5.2). You must consult the client about the use, and where appropriate, the selection of service providers and tell the client the name and status of the individual chosen, why they are being instructed, how long they might take to respond, and the costs of any disbursements that the client has to pay (see SQM requirement F5.4).

How do you evaluate service providers?

- 16.18 You must evaluate all performances observed (eg in conference or court) and all opinions and reports received (see SQM requirement F5.3). You do this by checking that the work complied with your instructions, and must either confirm that this is the case or record any adverse findings (see SQM definitions F5.3).

What if there is a problem with the service supplied?

- 16.19 In the case of a minor adverse finding, you should record it in order to alert other caseworkers, but a series of minor concerns relating to the same provider may lead you

to limit or even stop using their services. A significant adverse finding, such as evidence of a barrister demonstrating lack of preparation or knowledge of your client's case, should lead to an immediate review of the appropriateness of using them again (see SQM guidance F5.3).

- 16.20 You must record adverse findings so that other caseworkers can readily see them when they come to select a service provider, but you do not need to keep the findings in a central register of providers. Alternatively, you may choose to adopt a system that requires caseworkers to check a central file of adverse findings before they select a service provider (see SQM definitions F5.3).
- 16.21 If you use a barrister who holds the Quality Mark, you must report any adverse findings to the individual barrister concerned, other than in exceptional circumstances (see SQM definitions F5.3).

17 Complaints

- 17.1 You should make it as easy as possible for clients to make complaints, as this will provide feedback on how others perceive your service and generate ideas on how to improve it (see also CLS Support Quality Mark briefing no. 2, "Client Feedback").

General Help

- 17.2 "Auditors will be looking for evidence that all complaints received are being handled effectively. Critical to this process is an agreed definition of (a) complaint" (QMS guidance page 59). The General Help standard does not provide such a definition, but as at Specialist level, you should not restrict your own definition to one that only covers occasions where the client has made a formal complaint. You could choose to note any expression of dissatisfaction, eg a client comment that they found it difficult to wait a very long time in reception with their young children because of a lack of toys.
- 17.3 You must also:
- have a procedure for "identifying and dealing with complaints by clients" (General Help requirement G1.1);
 - inform clients "who to complain to and who has overall responsibility for the complaints process" (General Help requirement G1.2);
 - keep central records of complaints and how they were resolved (General Help requirement G1.3).

The CLS complaints leaflet is no longer in use, so General Help requirement G1.4 is now redundant.

- 17.4 As you must review client feedback at least annually, we advise you to include a review of your central record of complaints as part of this process (see General Help requirement G3.2).
- 17.5 Your organisation must demonstrate that clients are informed about how to complain and to whom. The method you choose to do this is up to you, but CLS Support suggests that you explain your procedure orally and/or provide the client with an explanatory leaflet or letter. You only need to give such information to telephone enquirers if they

express dissatisfaction, or if for some other reason you think they may be unhappy with your service.

Points in common between General Help and Specialist levels

- 17.6 At both levels you will need to have:
- an agreed definition of a complaint;
 - a central record of complaints and how they are resolved;
 - procedures for identifying and dealing with complaints.
- 17.7 At either level you may wish to use the following definition of complaint: “any expression of client dissatisfaction, however it is expressed” (QMS guidance G1.2). The “complaint need not include the word ‘complain’ and might be presented in writing, over the telephone or in person” (SQM guidance G1.2).
- 17.8 We suggest that your procedure allocates (a) named individual(s) to be responsible both for recording expressions of dissatisfaction in the central record and for ensuring that a relevant person at an appropriate level attempts to resolve the matter. A complaint against an individual may require a different approach to one about an organisational matter. For example, any frontline member of staff may be able to deal with a complaint about the length of time it takes to get an appointment, but a more senior person may need to assume charge where an allegation is made about the behaviour of an individual staff member such as an adviser or receptionist.
- 17.9 Where in either case the client is not satisfied with the response, they would normally be given an opportunity to seek a further review conducted by someone not involved in the first stage of the complaint, eg a supervisor/manager or relevant member of the Management Committee.
- 17.10 If Management Committee members play a role in your complaints process, CLS Support suggests that you consider how you will ensure that confidentiality is maintained. Have the members of the Committee signed a confidentiality clause and do they understand its importance? As with any decision affecting a client’s relationship with members of your organisation, you will also need to consider whether there are any potential conflicts of interest at committee level (see CLS Support Quality Mark briefing no. 4, “Conflict of Interest”).
- 17.11 You should acknowledge all complaints as promptly as possible, and explain how they will be dealt with. Ideally, this would involve providing the client with an indication of the time frame for investigating the issue and making a decision. You would then choose the most appropriate option from a range of solutions depending on the extent to which the complaint was upheld and the seriousness of the matter.
- 17.12 **NB:** If the complaint is about the quality of advice or you consider that the client may take legal action against your organisation, you may decide to direct all communications through senior staff. Care needs to be taken not to invalidate any professional indemnity or other legal cover by saying or doing something that implies or creates liability. For these reasons it is particularly important that you comply with your organisation’s complaints procedure and check any current guidance from your advice network.

Specialist

- 17.13 Your “work practices” must “show that clients have information about what to do if they have a problem with the service provided” (SQM requirement G1.1). When you open a file (see paragraph 5.5 above), “you must provide details of how and to whom [clients] should complain, in writing, at the outset of the case”. If you do not open a file “you must advise the client about whom to approach if they are dissatisfied with the service provided” (SQM definitions G1.1).
- 17.14 “For one-off advice given by telephone you need only give complaints information where the caller expresses dissatisfaction, or for some other reason you consider that they may not be happy with the service provided” (see SQM definitions G1.1). It is good practice to confirm at the end of the call that the client is happy with the service received (see SQM definitions G1.1 and Appendix C at the end of this briefing).
- 17.15 For non-solicitor organisations the procedure must comply with practices required by “recognised representative bodies”. These include “The Law Society, local authorities, and any full members of Advice Services Alliance (ASA) as well as other bodies which may from time to time, be recognised by the LSC” (SQM definitions C1.3). However, please note that ASA does not have direct individual advice agency membership, so does not have procedural requirements that would be applied to such organisations.
- 17.16 For solicitor organisations, the complaints procedure must comply with Solicitors’ Practice Rule 15 (see SQM definitions G1.2). Clients who are not satisfied with how a solicitor organisation has resolved their complaint regarding any legal assistance provided have the right to take their complaint to the Office for the Supervision of Solicitors (OSS). You should consider whether you need to amend your complaints procedure to reflect this. You could advise clients who are dissatisfied with the legal assistance provided to make their initial complaint to the legal adviser concerned, then your organisation’s supervising solicitor, and finally the Office of Supervision of Solicitors OSS (assuming the matter is not resolved at any of the first two stages). Complaints about other aspects of your service, eg lack of wheelchair access, could be directed to the service manager and then to the Management Committee (again, look out for CLS Support’s forthcoming briefing, “Employing a solicitor for the first time” for further information).
- 17.17 You must have “a central record of every complaint made, which is reviewed annually to identify trends” (SQM requirement G1.3). This must have details of the complaint and you must have available copies of the relevant documentation (usually correspondence) showing how the matter was resolved (see SQM definitions G1.3).
- 17.18 The annual review of complaints is used to improve the service “by establishing root causes and trends and preventing further complaints” (see SQM guidance G1.3). Action as the result of review may include training to individuals, changes to processes and procedures, or improving the complaints procedure or training in complaints (see SQM guidance G1.3).

18 Key dates

- 18.1 These are dates that are of crucial importance to the progress of your client's case. If you fail to act appropriately within the deadlines they represent, the client could lose the opportunity to pursue their case any further, and thus experience any of the consequences that this might entail in their particular circumstances. Additionally, the client may be able to sue you and/or your organisation for negligence.
- 18.2 You must highlight key dates in a place readily accessible to the person who is required to monitor them, eg an office diary, so that if, for example, the relevant caseworker falls sick, regular checking will ensure that someone else can take the necessary action within the required timescale.

General Help

- 18.3 There must be "a description of what the provider considers to be key dates and a diary system for dealing with them" (see QMS requirement E1.4).
- 18.4 The specific definition of what a list of key dates should include will vary from organisation to organisation and be influenced by the service that each one provides, but advisers need to "have a common understanding of what constitutes a key date eg court date, tribunal hearing and how it should be recorded" (see General Help requirement E1.5).

Points in common between General Help and Specialist levels

- 18.5 Key dates would normally include:
- time limits for reviews and appeals;
 - all hearing dates;
 - expiry of limitation periods.
- 18.6 You will need to ensure that all advisers are kept up to date with all relevant deadlines that apply to the areas they advise in, and also ensure that any changes to these, eg changes to Social Security appeal deadline timeframes, are cascaded to staff. The time limit for commencing legal action or an appeal will usually run from a particular event or decision. You therefore need to check with your client that you are using the correct starting point for calculating any limitation periods or deadlines.
- 18.7 CLS Support suggests that you enter a date at least three working days before the "real" key date (which you could enter in brackets next to it) to ensure sufficient time for any outstanding necessary action to be taken before the deadline expires. Caseworkers will usually find it useful to add these and other dates to their own diary in order to plan and keep track of their outstanding work.
- 18.8 If you are submitting appeal forms or other important documentation, then it makes sense to ensure that they arrive well before the relevant deadline, and to allow at least two days for first class post to arrive. If you are obliged to fax, say, notification of lodging an appeal against a decision refusing Income Support, because your client has made their first contact with you on the deadline date, you should phone the relevant office once you have faxed it, to confirm receipt.

- 18.9 You will need to nominate someone (eg a supervisor) to check the key dates on a regular basis and take appropriate action if a key date has been entered and there is no indication that the required action has been completed.

Specialist

- 18.10 The Quality Mark requires you to have a document that states your organisation's definition of key dates. This must always include litigation limitation dates and court/tribunal hearings, but you may find that you need to add other relevant time limits or deadlines to ensure that your caseworkers can identify all the key dates that apply to their particular areas of work (see SQM definitions E1.2). Your key dates are "likely to be influenced by the category of work they cover or the service you offer" (see SQM guidance E1.2).
- 18.11 The Definitions section goes on to say that your procedure(s) must:
- outline "the backup system caseworkers use to ensure that they are alerted (other than by their own diaries) to the relevant key dates";
 - identify "who is responsible for recording and monitoring key date records and how often this is done".
- 18.12 You can record key dates in any format "eg in a paper diary or on computer so long as they are readily accessible by the person required to monitor the back-up", but "a record on the case file itself will not count as a back-up unless eg files are held electronically and the system provides an alert when the key date is approaching" (see SQM guidance E1.2(c)).
- 18.13 Auditors will check case files and backup records to see that procedures work effectively and that reviews are sufficiently frequent (see SQM guidance E1.2 (c)).

Appendix A: Sample client information form

This form meets SQM requirements but organisations operating at General Help level may also wish to use or adapt it.

Appendix B: Specialist Quality Mark Guidance – Breaching confidentiality

“A comprehensive list of circumstances in which the caseworker should consider whether to override client confidentiality needs to be given in your procedure. It should be tailored to the service you offer (eg to cover the types of cases you handle) but is likely to include the following situations (as set out in ‘The Guide to the Professional Conduct of Solicitors’, eighth edition, 1999), where:

- Information used by the client to facilitate the commission of a crime or fraud is concerned.
- Express consent has been given by the client (or personal representatives of a deceased client) to disclose information (including express consent to disclose files for audit (see F4.2 below)).
- It is considered necessary to reveal confidential information to prevent the client or third party from committing a crime that is likely to result in serious bodily harm.
- In exceptional cases involving children, information of a serious nature (eg sexual, mental or physical abuse) should be given to an appropriate authority.
- In proceedings under the Children Act 1989, experts’ reports (for the purpose of proceedings) are not privileged.
- A court orders that material should be disclosed or where a warrant permits a police officer or other authority to seize confidential material.
- An act of terrorism could be prevented.”

Appendix C: Complaints procedure

This procedure is based on the Citizens Advice model procedure designed by Vicky Ling (see Citizens Advice Bureau Management Information System for their full current requirements).

The procedure for dealing with a complaint

Complaints procedures should address the needs of the complainant and not the organisation. They need to be simple to understand, have the ability to give quality responses quickly, and be seen to be fair and effective.

In most circumstances complaints can be dealt with effectively by front-line staff. Complainants are often seeking an explanation as to why the problem has occurred, an apology and reassurance that the problem is being dealt with. If the complaint can be resolved at this stage it need only be recorded.

In other cases a complaint may be more complex and require investigation. The complaints procedure for the CAB Service has four stages. Bureaux should not assist people to make complaints against other Bureaux. Complaints are sometimes sent to regional offices or Central Office concerning individual Bureaux. Where this occurs, the complaint will be referred to the place of origin of the complaint in order to give them the opportunity to respond. Complainants should be informed that this is part of the complaints procedure. It is important that the Service has a uniform approach to dealing with complaints. Therefore the following procedure should be followed:

Stage One

Once a formal complaint has been received a letter acknowledging the complaint must be sent to the complainant within five working days. Enclosed with the acknowledgement letter should be information concerning the complaints procedure, which informs the complainant what action is being taken, the person dealing with the complaint and the time by which they can expect to receive a reply.

In the case of a complaint at Bureau level the Manager should inform the Chair of the Management Committee of the existence of the complaint. In cases of complaints concerning regional offices or NACAB the relevant director should be informed.

The next step will be to conduct an investigation into the nature of the complaint. This may mean checking case records, speaking to staff members, etc. The object is to establish the facts of the case. Bureaux may wish at this stage to call on the Regional Office for assistance with any investigation especially with sensitive issues such as those concerning equal opportunities. Regional Offices or Central Office, may call on the assistance of the relevant director.

Once the investigation is complete a letter detailing the investigation and subsequent findings should be sent to the complainant. The target time for responding in full to complaints is 20 working days. If the matter is particularly complex and further time is required to respond in full, a letter should be sent to the complainant explaining the reasons why and including details of when a response will be sent.

Research has shown that most complainants do not want extremely detailed responses justifying why the situation arose. What complainants generally want to know is that their

complaint has been taken seriously, that the organisation apologises for their experience, and what kind of action is being taken to prevent the situation happening to anyone else. The letter should also inform the complainant that if they are not happy with the reply, they could ask for a review to be conducted. The name and address of the person responsible for conducting the review should be provided.

If the complaint is resolved at this point, then it need only be recorded in the pro-forma in the Complaints file. All correspondence should, of course, be filed and kept confidential. All details of complaints should be kept separate from client case records or personnel files.

If the complaint is not resolved at this stage the complainant can ask for a review. If a review is requested move on to Stage Two.

Stage Two – Reviewing the complaint

The process to be followed in reviewing the complaint is exactly the same as in Stage One, except that the people dealing with the issue will be different. The same timescales for responses apply.

In the case of complaints at Bureau level, this will be the Chair of the Management Committee, or a designated sub-committee with guidance from the Regional Officer/Regional Development Officer if required.

If the complaint is at Area or Central Office level, the review will be carried out by the director responsible.

If the complainant is not satisfied she/he can request a review, which will be conducted under the direction of the Chief Executive.

Stage Three – Review by the Chief Executive

The process to be followed in reviewing the complaint is exactly the same as in Stage One, except that the people dealing with the issue will be different. The same timescales for responses apply.

If the complainant is not satisfied she/he can request a review, which will be conducted by the Independent Adjudicator.

Stage Four – The Independent Adjudicator

There exists the right to a review conducted by an Adjudicator who will be entirely independent of the Association. The Independent Adjudicator, once informed, will conduct a review of the investigation. Any such review will deal only with the following matters:



that the investigation has been conducted in line with the stated procedure;



that the investigation has been handled fairly.

The Independent Adjudicator will not comment of the substance of the complaint.

Should the Independent Adjudicator find that stated procedure was not followed, or that the matter has not been handled fairly, they shall specify why and give the complaint back to the directors for a re-investigation.

The decision of the Independent Adjudicator is final.

Getting further help

community legal service



Network contacts

Management Helpline DIAL UK St Catherine's Hospital Tickhill Road, Balby Doncaster DN4 8QN ☎ 01302 310123	James Kenrick Youth Access 1a Taylors Yard Alderbrook Road London SW12 8AD ☎ 020 8772 9900	Law Centres Federation 18-19 Warren Street London W1P 5DB ☎ 020 7387 8570
John Mulligan Advice UK 12 th Floor New London Bridge House 25 London Bridge St London SE1 9ST ☎ 020 7407 6611	JJ Costello Shelter Cymru 25 Walter Road Swansea SA1 5NN ☎ 01792 469400	Citizens Advice Myddelton House 115-123 Pentonville Road London N1 9LZ Bureau Management Consultancy Line ☎ 0845 120 2035
John Edwards Age Concern England 1268 London Road London SW16 4ER ☎ 020 8765 7468	Shelter 3 rd Floor, Ludgate Chambers Ludgate Hill Leeds LS2 7HZ ☎ 0113 2455030	CLS Consultancy Line ☎ 020 7833 7046/7134

Legal Services Commission Regional Office contacts

You can also contact your regional LSC office. If you aren't sure which area you are in, any regional office should be able to direct you to the one for your area. For queries about the Quality Mark **only**, you can email the LSC at sdg.issues@legalservices.gov.uk.

London 29-37 Red Lion Street London WC1R 4PP ☎ 020 7759 1500	North Western 2nd Floor, Elisabeth House 16 St Peter Square Manchester M2 3DA ☎ 0161 244 5000	South Western 33-35 Queens Square Bristol BS1 4LU ☎ 0117 302 3000
South Eastern 3 rd -4 th Floor Invicta House Trafalgar House Brighton BN1 4FR ☎ 01273 878800	North Eastern Eagle Star House Fenkle Street Newcastle NE1 5RU ☎ 0191 244 5800	East Midlands Fothergill House 16 King Street Nottingham NG1 2AS ☎ 0115 908 4200
Southern 80 King's Road Reading RG1 4LT ☎ 0118 955 8600	Yorkshire & Humberside City House New Station Road Leeds LS1 4JS ☎ 0113 390 7300	Wales Marland House Central Square Cardiff CF1 1PF ☎ 029 2064 7100
Eastern 62-68 Hills Road Cambridge CB2 1LA ☎ 01223 417800	West Midlands City Centre Podium 5 Hill Street Birmingham B5 4UD ☎ 0121 665 4700	Merseyside Cavern Walks 8 Mathew Street Liverpool L2 6RE ☎ 0151 242 5200

Office of the Immigration Services Commissioner (OISC) 6 th Floor Fleetbank House 2-6 Salisbury Square London EC4Y 8JX ☎ 020 7211 1500 www.oisc.gov.uk	The Office of the Information Commissioner Wycliffe House Water Lane Wilmslow Cheshire SK9 5AF ☎ 01625 545 745 www.dataprotection.gov.uk
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CLS Support Director: Michael Eddowes
Project Adviser: Kem Herbert
Project Consultant: Audrey MacDonald
Project Consultant: Patrick Torsney

Advice Services Alliance
12th Floor, New London Bridge House
25 London Bridge Street
London SE1 9ST

www.asauk.org.uk
Fax: 020 7407 6822

Telephone and email consultancy

Consultancy line: 0870 7700 447
cls.support@asauk.org.uk

The line will be open at the following times:

Monday	3 pm – 5 pm
Tuesday	10 am – 12 pm
Wednesday	10 am – 12 pm
Thursday	10 am – 12 pm

Consultancy will be provided to individual agencies on issues relating to Quality Mark and Community Legal Service Partnerships. We will be able to advise agencies that have applied, or are considering applying for the Quality Mark, with the focus being on issues relating to the General Help level and above. We will also be able to advise on CLS General Civil Contracts. Our intention is to tailor our support as closely as possible to the nature and requirements of individual agencies.

The consultancy line is operated by the project staff, who will answer enquiries at first contact wherever possible. Where further research needs to be carried out in order to answer an enquiry, callers will be informed when they are likely to receive a reply and will be contacted at that time for an update if a full response is still not possible. The project advisers will aim to send any further written information to enquirers within five working days.

Training and Seminars

CLS Support provides training and seminars on both Quality Mark and contracting issues. For further information, including details of costs, please either contact us on the consultancy line or log on to our website.

Briefings

Our current programme of briefings is listed on the following page. Quality Mark briefings will deal with requirements at all Quality Mark levels to which the briefing topic relates. The order of priority of briefings is subject to consultation with subscribers – please complete and return the attached briefings feedback form to give us your views.

The LSC has agreed to subsidise the cost of briefings initially. Currently therefore, briefings will be free to Not-for-Profit organisations who are members of the major advice networks, while private solicitors, non-networked organisations and local authorities will be required to pay a subscription fee.

Email and Internet

You can also send your enquiries by email. A project adviser will respond to you within five working days. We request that you include a contact telephone number with your enquiry so we can call you back to obtain further information if necessary.

The ASA website includes a What's New page with Quality Mark and contracting updates, access to electronic versions of a limited number of our briefings, and details of our current training courses.

Briefings

Series 1: The Quality Mark

1	Introduction to the Quality Mark
2	Client Feedback
3	Independent File Review
4	Conflict of Interest
5	Service Planning
6	People Management – Sample Procedures
7	Signposting and referral
8	Case Management and Client Care
	<i>File Management</i>

Series 2: The General Civil Contract

1	Separate matters and Work that can count against contracts
2	Contract reporting arrangements – SPAN
3	Changes to Eligibility
4	Disbursements
	<i>Employing a solicitor for the first time</i>
	<i>Controlled Work and Contract Compliance</i>
	<i>Sufficient Benefit Test</i>

Please note that the titles in italics are not yet published. Both the running order and the titles themselves are subject to alteration. We aim to respond to the changing priorities and needs of our readers as identified from any feedback received. We will also take into account any new developments in the Quality Mark.

Franchising Support Project Briefings

A limited number of the following briefings published by the Franchising Support Project are still available. When current stocks run out, they will not be reprinted, as they will be superseded by the CLS Support briefings listed above.

Not for Profit Sector Briefings – all of these are correct as at date published

- No. 7 The Contract Rules**
- No. 9 General Civil Contract: the Framework – The Access to Justice Act 1999
- No. 10 Funding Code and Other Levels of Service

** These briefings are only applicable to agencies who have, or are applying for, a CLS fund contract

BRIEFING FEEDBACK SHEET
CLS Support Project Quality Mark Briefing No. 8



Please let us have your views on this briefing and whether there are other aspects of the Quality Mark , General Civil Contracts or the Community Legal Service on which you would like more briefings. Feedback from your organisation will help us make future briefings as relevant and easy to follow as possible.

Did you find this briefing helpful?.....
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Do you have suggestions for any changes that might have made it more useful to you?
If yes, please specify:

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Were there issues that you expected to be covered in this briefing and about which you want to know more? If yes, please say what these are:

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Are there other aspects of the Quality Mark, General Civil Contracts or the Community Legal Service on which future briefings would be useful?

If yes, please list below in order of importance:

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Your name:..... Tel:

Email:.....

Name/address of your agency:

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Please return to: Advice Services Alliance, CLS Support Project, 12th Floor New London Bridge House, 25 London Bridge Street, London SE1 9ST or email cls.support@asauk.org.uk subject line " Quality Mark Briefing No. 8 Feedback"