

Email Bulletin (Contracting No.6): Managing “demanding” clients

1 Why this bulletin?

- 1.1 It is clear from questions asked at ASA training courses and addressed to our CLS Support consultancy line that some advisors have problems in dealing with “demanding” clients. Advisers feel that such clients make it difficult to work within LSC contract time constraints. Whilst some clients will always be difficult, this short bulletin suggests ways of avoiding problems or dealing with them when they arise.
- 1.2 The bulletin is aimed at primarily non-solicitor agencies. Solicitor agencies are required to comply with the Law Society’s Professional Conduct Rules (Chapter 12: Retainer).

2 What are “demanding” clients?

- 2.1 A few examples:
 - My client ignores my advice, gets herself into worse trouble, and then comes back demanding that I sort it out for her. It means that things take so much longer to sort out.
 - My client’s case has taken up too much of my time because he phones me up every day to ask me what is happening. I am now in trouble with the sufficient benefit test and am worried about claiming for any more work under the LSC contract.
 - I am advising a client in relation to unfair dismissal, but at every meeting he asks me for help with another problem: his gas bill, neighbours, daughter etc.
 - I have done what I can for the client, but she keeps coming back. There isn’t anything else that I can realistically achieve for her – she simply doesn’t have any legal claim.
 - My client insists that I write a letter to the M.P., but I don’t think that this will help – do I have to do what he says?

3 What are not “demanding” clients?

- 3.1 Clients, for example, with mental health problems or physical disabilities are not demanding just because their needs may create an extra dimension to the case and the case may need to be managed differently.

4 In summary

- 4.1 This bulletin suggests that some problems with “demanding” clients can be avoided or resolved by:

- Advisers being very clear at the beginning of the case what they are agreeing to do for the client and when this will be reviewed AND
- Agencies developing and using policies and procedures for making a decision not to continue to act for a client.

5 Avoiding problems - at the beginning of the case

5.1 Problems with “demanding” clients can often be traced back to the beginning of the case. It is important that, from the outset, clients are very clear about what advisers are agreeing to do for them. This might mean that advisers need to spend more time at the beginning of the case, but this should save time in the long run. The client care letter should be used to make it very clear:

- Precisely what problem or problems the adviser is advising on AND
- What the adviser has agreed to do on the client’s behalf AND
- When this agreement will be reviewed.

6 A couple of examples

6.1 An agreement to help a client with “their housing problems” could reasonably be interpreted by a client as including writing several letters to their landlord and the Gas Company about relatively trivial problems. It is better to be clear and precise:

“I have agreed to advise on your application to Bournemouth City Council for housing on the grounds of your homelessness”.

This does not stop advisers from agreeing to deal with other problems at a later date (or arranging for them to be dealt with by another non-LSC contract adviser within the same agency or referring them to another agency) but does mean that it is up to them whether or not they do so.

6.2 It is also sensible to make it clear when an agreement to act for a client will be reviewed. Again, it is not enough to say, “I will act on your behalf in relation to your claim for unfair dismissal”. A client could reasonably take this to mean that the adviser will represent them at the Employment Tribunal and beyond - regardless of whether problems emerge about the merits of the case. It may be better to say

“Thank you for coming to see me about your dismissal from work. I have advised that you may have a good case for making a claim to the Employment Tribunal for unfair dismissal, although it is difficult for me to be very sure at this early stage. I have agreed to write to your ex-employer to ask for their written reasons for your dismissal. Once I have received them, I will arrange to meet you again to discuss your case. At that meeting, I will advise you about what further action I can take, if any.

From time to time, I am required to review whether I can continue to act for you. In making this decision, I need to take into account

- *My assessment of the strength of your case*

- *The amount of compensation you are likely to receive, if you win*
- *The amount of my time that your case will take*

The time limits for your case within which you have to issue proceedings by are..."

7 When things go wrong – later in the case

- 7.1 ASA suggests that advice agencies should consider having a policy and procedure, which makes it clear when they will not act, or continue to act, for clients.
- 7.2 Agencies will in any event have policies dealing with related issues e.g.
- The client has made discriminatory comments about disadvantaged groups
 - They have been abusive, threatening or violent to staff members or members of the public
 - Continuing to act would involve breaking the law or being in breach of other agency policies (e.g. conflict of interest, confidentiality)
- 7.3 A policy dealing with the situations of the kind discussed above in 2.1 might set out that the agency will not continue to act for a client where:
- The client is unable to be consistent about what they want and what they want you to do
 - The client "changes their story" in a way that is relevant to the case
 - There is a breakdown in the relationship between the client and their adviser and it is clear that the client does not trust or accept the advice that they are being given (e.g. refusing to accept that it is not necessary or appropriate for you to write a letter to an M.P. on the client's behalf)
 - A client is behaving unreasonably (e.g. you have given assurances about frequency of contact and the client is refusing to stop phoning every day)
- 7.4 An advice agency will also need to make clear how the agency will go about making such a decision. Any procedure will need to set out:
- Who is responsible for making the decision (e.g. the manager or casework supervisor)
 - When a warning letter might be given first. It will be appropriate to give a client a warning about some types of behaviour (phoning every day), but may not be for others (threatening violence).
 - How the client might appeal or complain about the decision
- 7.5 Advice agencies may need to consider whether it is appropriate for clients to be told in advance of the existence of this policy or procedure e.g. by including a paragraph about it in the client care letter or in an information leaflet given to them at the beginning of the case.