



Independent
Quality Assessment
of Legal Services

IMPROVING YOUR QUALITY

A guide to the common issues identified through peer review

debt

Foreword

Improving Your Quality

A guide to common issues identified through peer review

The focus of the delivery of legal aid is firmly on the provision of consistently good quality services for clients.

The introduction of the peer review process provides a unique opportunity with access to a wealth of information directly related to the quality of legal advice and information given to clients. It allows us to identify areas of good practice and areas in need of improvement.

We are pleased to introduce ‘Improving Your Quality – Debt’, which is intended to give the profession access to peer review findings and help support those wishing to achieve the highest levels of quality of legal advice and work.

The guide makes available common quality issues identified by the Debt Peer Reviewers. Derived from the entire body of peer review reports, analysis has concentrated on those issues frequently contributing towards lower ratings at Peer Review. Each issue is divided into 3 parts:

- A brief description of why the issue has been identified as important.
- The process by which an organisation can identify if the quality concern affects their work and advice.
- Outline suggestions on activities/methods which could assist improvement.

These suggestions for making improvements are not suggesting a standard approach. Nor are they an exhaustive list; they are only some of the ways that improvements can be made. Your organisation may have other ways of resolving the issues raised in the guide, it is not our intention to invalidate those approaches.


Some of the suggestions may also lead to a more general debate concerning standard setting, and the best approaches to dealing with specific quality of advice issues for Debt work. We would welcome the opening up of the world of legal competence to such scrutiny and debate.

Avrom Sherr

Director of Institute of Advanced Legal Studies

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Has the adviser gathered adequate information about the client and their case?

Why does this matter?

Inadequate information gathering could result in clients not being advised correctly in relation to all circumstances of their case. Inadequate personal information may also prevent the advisor from making appropriate referrals.

How can I check this is on my files?

- Is the client's personal information (including contact details) recorded on the file?
- Are full instructions taken from the client early on in the case?
- Are there copies of all relevant documents on the file (for example, credit agreements)?

What will help?

- Devise a questionnaire for clients to complete in their first interview, covering all points that may be relevant to clients (for example, bankruptcy, rent arrears, mortgage arrears, multiple debt). Consider sending a completed copy of the questionnaire to the client for checking.
- Send reminders to the client requesting information that is missing from their file and have a diary system to check if the client has responded. Take appropriate action if the client fails to respond.

“Are full instructions taken from the client early on in the case?”

Has a Financial Statement been drafted?

Why does this matter?

It is essential that a Financial Statement, showing the client's income and outgoings, be drafted at an early stage in the case to assist in any negotiations with creditors (an exception to this would be if the only matter in issue is one of liability). A Financial Statement may also help to raise the client's awareness of the limitations of their finances.

How can I check this is on my files?

- Is a standard form Financial Statement drafted at the first interview with the client?
- Is the Financial Statement reviewed when the client's circumstances change?

What will help?

- Implement a system that requires the client to complete a Financial Statement on the first attendance with the adviser or as soon as possible thereafter.
- Ensure clients are told to let the adviser know of any relevant change in circumstances.
- Consider using diary entries as a reminder to update or review Financial Statements at regular intervals.

“Is the Financial Statement reviewed when the client's circumstances change?”

Have relevant income checks been carried out?

Why does this matter?


The client may be entitled to income they are not receiving and the income check should identify potential sources of extra income. Additionally, the client may be able to raise a lump sum, which would reduce the debt amount.

How can I check this is on my files?

- Is there evidence of income maximisation sheets?
- Is there evidence of budget forms?
- Is there evidence of the client being informed of this work being carried out?

What will help?

- Set procedures to carry out income maximisation sheets.
- Carry out set procedures at regular intervals to maximise income.



“Is there evidence of income maximisation sheets?”

Have priority and non-priority debts been identified?

Why does this matter?

The difference between priority and non-priority debts is significant, as it will determine the appropriate strategy for dealing with the case and impact on negotiations with creditors. The sanctions available to creditors will also be significant.

How can I check this is on my files?

- Does correspondence to clients highlight the importance of the debt and the sanctions available?
- Have priority and non-priority debts been separated on the financial statement?
- Has the correct strategy been adopted for dealing with the different debts?

What will help?

- An appropriate financial statement that separates priority and non-priority debts.

“Has the correct strategy been adopted for dealing with the different debts?”

Are clients advised of the strengths and weaknesses of their case at an early stage?

Why does this matter?

Failure to advise clients of the weaknesses in their case at an early stage may cause clients to have unrealistic expectations, and may cause cases to drift and possibly proceed in the wrong direction.

How can I check this is on my files?

- Is there an attendance note or letter to the client showing that the client is being properly advised as to the strengths and weaknesses of their case?
- Has there been proper consideration of the options open to the client? Have these been confirmed to the client in writing?
- Has a financial statement been drawn up on behalf of the client?
- Is the financial statement amended when the client's circumstances change?

What will help?

- Consider asking clients to acknowledge any advice on the weaknesses of their case by signing the advice letter/notes.
- Consider trying to determine the clients' understanding, for example, by asking them to answer questions that will demonstrate their understanding of the merits of the case.

“Has there been proper consideration of the options open to the client?”

Do clients receive comprehensive written advice?

Why does this matter?

- Clients may misunderstand or misinterpret oral advice. Advisers and/or clients may need to refer back to the advice at a later stage of the proceedings.

How can I check this is on my files?

- Has the client received an initial client care letter?
- Is the information/advice in letters to the client in line with the information/advice recorded in attendance notes?
- If the matter or issues change, is the client given up-to-date advice in writing?

What will help?

- Adopt standard procedures: send clients a standardised letter tailored to their case and/or information leaflets.
- Ensure clients receive follow-up letters and/or leaflets confirming advice after each visit/telephone advice given.
- Consider sending a copy of the attendance note to the client, particularly if they have signed it.

“A comprehensive advice letter will make it easier to check the advice given to the client.”

Has there been timely advice for clients of the progress of their case or the steps to be taken next?

Why does this matter?

Delays in advising clients of the progress of their case and steps to be taken next may lead to inefficiency in the conduct of the case, insufficient time to prepare the case and client dissatisfaction.

How can I check this is on my files?

- Have updates been sent to the client after any significant event or when correspondence from creditors has been received?

What will help?

- Implement a diary or follow up system to ensure that the adviser with conduct of the case checks the files regularly.
- Introduce a client charter dealing with how often the client should be contacted with follow-up correspondence.
- Copy all correspondence with and from other parties to the client. This can be done with a “with compliments” slip, if no comments are required.

“Implement a diary or follow-up system to ensure that the adviser with conduct of the case checks the files regularly.”

Has the adviser with conduct of the case used reasonable skill, care and diligence to progress the case?

Why does this matter?

A lack of reasonable skill, care and diligence may result in inadequate advice and assistance being given to the client which may adversely affect the outcome of the case.

How can I check this is on my files?

- Have the client's instructions been implemented?
- Has the adviser responded promptly to contact from other parties and chased other parties when necessary?
- Has the adviser correctly identified and pursued issues not necessarily raised by the client (for example, the validity of a Consumer Credit agreement)?
- Is the advice given by the adviser legally correct?
- Is the adviser keeping up to date in their area of practice?

What will help?

- Ensure that advisers take comprehensive instructions early on in the proceedings.
- Operate a diary system to ensure matters are appropriately progressed by the adviser.
- Provide a list of steps necessary to further the case and ensure that the client and the adviser review it regularly. A copy of this list should be enclosed in the initial advice letter and updated to the client when it is reviewed.

“Is the advice given by the adviser legally correct?”

Is the adviser aware of Court rules and procedures?

Why does this matter?

If the adviser is unaware of the Court rules and procedures, there is a risk that incorrect advice may be given to the client; this could result in a poorer outcome for the client and negligence.

How can I check this is on my files?

- Is there evidence on the file demonstrating that the adviser is aware of court rules and procedures, for example, was the correct action taken in the case?
- Has the client been provided with written information (for example, a letter or leaflet) about Court rules and procedures? Has the information been tailored to the client's particular circumstances?

What will help?

- Ensure the adviser has a system whereby they are notified promptly of changes to court rules and procedures.
- Ensure adequate resources, such as the White and Green Book or other books of Court Rules, so that the adviser can check the rules.

“Has the client been provided with written information about Court rules and procedures? Has the information been tailored to the client's particular circumstances?”

Are files organised, in chronological order and legible?

Why does this matter?

Files that are disorganised and contain illegible handwriting are difficult to refer back to and would not pass the “pick up test”.

How can I check this is on my files?

- Are the files organised and in chronological order?
- Are pro-forma and handwritten file notes legible to others?
- Are notes that are illegible transcribed?
- Is the continuity of the case between advisers unaffected by the order or legibility of the file?

What will help?

- Set up a proper and effective file review system.
- Date each item of attendance, preparation and correspondence and ensure that it is filed chronologically.
- Consider typing up any handwritten notes in appropriate cases; double up this process by including the notes in advice letters to clients.
- Set up an efficient filing system.

“Is the continuity of the case between advisers unaffected by the order or legibility of the file?”

Are clients sent adequate final outcome letters?

Why does this matter?

Final outcome letters ensure that clients are not in doubt about the effect of the closure of the case, their position (for example, how to pay their fines and the length of time they have to continue making payments before their matter is reviewed) and their right to take matters further if appropriate.

How can I check this is on my files?

- Do final letters contain adequate explanation of how the case is concluded and advice on appeal or other further steps the client could take?
- Does the final outcome letter cover all points listed in the initial attendance note?
- Is the advice (especially on appeal/further steps) individually tailored to the client's case and not simply standardised wording?

What will help?

- Refer to the initial attendance note when drafting the final outcome letter.
- Advise clients in time for any deadlines such as for an appeal.
- Advise clients what they can do if they disagree with the advice on appeal/further steps.
- Send standard outcome (end of case) letters, including advice on any time limits, returning original documents to clients etc.



“Does the final outcome letter cover all points listed in the initial attendance note?”



Debt Peer Review Panel Members

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(as of August 2006)

