Standard operating procedure for reporting and referral of High Profile Cases in Civil Case Management
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Version History

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1. **Overview**

1.1 This standard operating procedure sets out the circumstances in which High Profile cases should be referred to senior colleagues and then on to the Central Legal Team and the Principal Legal Advisor to advise on funding decisions in order to minimise legal and reputational risk associated with High Profile cases.

1.2 If there is any doubt whether a case should be considered to be High Profile it can be referred to the Central Legal Team’s Funding Team (“Funding Team”) to review.

1.3 Cases which are already attracting media attention should always be referred to the LAA’s Communications department under the separate standard operating procedure.

**Role of the Funding Team**

1.4 Lawyers in case management are the subject specialists in terms of the legal aid category whilst lawyers in the Funding Team are specialists in relation to the legal aid scheme and, in particular, the criteria in the Civil Legal Aid (Merits Criteria) Regulations.

1.5 The Funding Team supports the Principal Legal Advisor and the Principal Legal Advisor’s role is to provide assurance to the Director of Legal Aid Casework that decisions to provide or refuse to provide funding are lawful. The Funding Team will consider the facts of each High Profile case referred to it and give advice on the application of the criteria set out in the Legal Aid Sentencing and Punishment of Offenders Act and the Civil Legal Aid (Merits Criteria) Regulations to the specific facts of the case.

1.6 The Funding Team are not the decision makers in this process, but offer legal advice on the relevant criteria. Appeals against decisions made by the High Cost Cases team following legal advice from the Funding Team will proceed to an Independent Funding Adjudicator (“IFA”) or to the Special Controls Review Panel (“SCRP”) and returned to the relevant caseworker in the normal way. If the IFA or SCRP has made a finding against the original DLAC decision, then the views of the Funding Team should again be sought, unless the only issues under appeal were those on which the IFA/SCRP can make binding findings.

1.7 Due to the need to maintain information barriers in claims against the Director of Legal Aid Casework, applications for legal aid to challenge Director of Legal Aid Casework decisions are excluded from this process.

1.8 In order to be able to give assurance to the Director of Legal Aid Casework the expectation is that the advice of the Funding Team and/or Principal Legal Advisor in relation to the criteria will be followed. In the unlikely event of any difference of opinion paragraph 4.2 sets out an escalation process for the Head of High Cost Casework (HHCC).
2. Defining High Profile

2.1 Where a case is already attracting media attention it should always be referred to the LAA’s Communications Team. However, cases attracting media attention may not always need to be referred to senior colleagues and the Funding Team for advice on funding decisions.

2.2 A case will be considered as High Profile for the purposes of this standard operating procedure if it meets one of the following criteria:

2.2.1 The case is likely to change the interpretation of existing law or government policy or impact on public expenditure in a significant way.

2.2.2 The case is likely to cause a significant impact on Legal Aid expenditure (i.e. there is the potential to cause a change to the interpretation of Legal Aid scheme itself affecting future applications and expenditure, rather than the particular case being above a certain value).

2.2.3 The case is proceeding to the Court of Appeal (excluding applications for permission from the UTT in immigration cases) or the Supreme Court.

2.2.4 The decision whether to grant or refuse legal aid to the client could cause serious reputational damage to the LAA.

2.3 In relation to the fourth criterion above, this might include funding high profile persons challenging the state, in circumstances that may attract hostile publicity or controversy or, conversely, refusing funding to an individual in a matter that is likely to attract widespread public sympathy. Cases should not ordinarily be referred under this standard operating procedure where they simply involve a famous or high profile individual.

Identifying cases as High Profile is not an exact science and requires the application of common sense by staff at any stage when dealing with a case. If in doubt, advice must always be sought from the Head of High Cost Cases and the Communications team.
3 High Profile Reporting

3.1 At any stage in the life of an application or certificate if a potential High Profile case is identified it must be immediately referred by caseworkers to their Team Leaders. At this stage no determinations can be made on the application until the application is either deemed not to be High Profile or advice is received from the Funding Team and the determination is agreed with the Head of High Cost Casework.

3.2 Within 2 working days of receipt, the Team Leader will consider the matter and likelihood of the case being or becoming High Profile in line with the criteria set out in section 2.

3.3 If it is not determined that it meets the criteria of a High Profile case the matter will be returned to the caseworker to be processed in the ordinary way.

3.4 If the Team Leader decides the matter is High Profile, they will complete the High Profile Database, generate a report and ensure it is sent to the ZZPI/HPP Reports email group.

3.5 The Team Leader must also refer the case to the Head of High Cost Casework and the Funding Team using annex A.

3.6 The Team Leader will in any event be responsible for keeping the High Profile Database updated throughout the life of the case.

3.7 The Team Leader will deal with the Press Office and other appropriate departments with regard to press releases, questions from the Press Office regarding enquiries from the media, Parliamentary questions and FOI requests in line with the Press Office Referral Standard Operating Procedure.
4 High Profile Referral

4.1 The Funding Team will consider the information provided and will provide written advice to the Head of High Cost Casework and the Team Leader within two working days of receipt. If this is not practicable the Head of High Cost Casework will be informed and an alternate date agreed.

4.2 In the unlikely event that the Team Leader or Head of High Cost Casework takes issue with the legal advice from the Funding Team, the Head of High Costs Casework and the Principal Legal Advisor will endeavour to ensure that any difference of view is resolved, as follows:

4.2.1 Firstly by discussing the matter further;

4.2.2 If agreement cannot be reached, by escalation to the Director of Case Management.

4.2.3 If the matter cannot be resolved by agreement at this stage the Principal Legal Advisor will escalate the matter to the Director of Legal Aid Casework.

4.2.4 In the extremely unlikely event of any outstanding concerns on the part of the Principal Legal Advisor they may consider it appropriate to escalate the matter to the Law Officers in accordance with the Guidance Note for Government Lawyers.
5 Process

Application for funding received

Case identified as potential High Profile case

Pass case to Team Leader

Is case High Profile, or any doubt if High Profile or not?

Note case on system as having been determined as not High Profile

Pass to Caseworker for processing

Follow reporting procedures

Should this case be referred?

Note position on system

Team leader completes referral form and sends to the Funding Team and Head of High Cost Casework within 2 working days

Funding Team considers and provides advice to Team Leader and Head of High Cost Casework within 2 working days

Head of HCC Agrees

Confirm by e-mail to Team Leader

Recommendation put into effect

Head of HCC Disagrees

Head of HCC refers the matter back to the Principal Legal Advisor. Matter then referred to Director of Case Management. If the matter cannot be resolved it will be referred to the Director of Legal Aid Casework and if necessary to the Law Officers

Decision of Law Officers is final, if agreement cannot be reached at an earlier stage.
Annex A

High Profile Referral Form

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<thead>
<tr>
<th><strong>Name of Applicant</strong></th>
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<tr>
<td><strong>Name of opponent</strong></td>
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<tr>
<td><strong>Name of provider</strong></td>
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<tr>
<td><strong>Date application received</strong></td>
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<td><strong>Reference Number</strong></td>
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<tr>
<td><strong>Urgency?</strong> (for example, is there an imminent Court hearing, deportation, etc.)</td>
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<tr>
<td><strong>Type of case</strong></td>
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<tr>
<td><strong>Short summary of case</strong></td>
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<tr>
<td><strong>Why is this high profile?</strong></td>
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<tr>
<td><strong>Assessment of merits</strong></td>
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<tr>
<td><strong>Assessment of means</strong></td>
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<tr>
<td><strong>Other LASPO requirements</strong></td>
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<td><strong>Date of referral</strong></td>
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<tr>
<td><strong>Funding Team advice</strong></td>
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<td><strong>Date of advice</strong></td>
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<tr>
<td><strong>Escalation</strong></td>
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