

*Status: Point in time view as at 22/04/2014.*

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## SCHEDULES

### SCHEDULE 1

#### CIVIL LEGAL SERVICES

#### PART 3

##### ADVOCACY: EXCLUSION AND EXCEPTIONS

The services described in Part 1 of this Schedule do not include advocacy, except as follows—

- (a) those services include the types of advocacy listed in this Part of this Schedule, except to the extent that Part 1 of this Schedule provides otherwise;
- (b) those services include other types of advocacy to the extent that Part 1 of this Schedule so provides.

##### *Exceptions: courts*

- 1 Advocacy in proceedings in the Supreme Court.
- 2 Advocacy in proceedings in the Court of Appeal.
- 3 Advocacy in proceedings in the High Court.
- 4 Advocacy in proceedings in the Court of Protection to the extent that they concern—
  - (a) a person's right to life,
  - (b) a person's liberty or physical safety,
  - (c) a person's medical treatment (within the meaning of the Mental Health Act 1983),
  - (d) a person's capacity to marry, to enter into a civil partnership or to enter into sexual relations, or
  - (e) a person's right to family life.
- 5 Advocacy in proceedings in [<sup>F1</sup>the county court].

##### **Textual Amendments**

- F1** Words in Sch. 1 Pt. 3 para. 5 substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), Sch. 9, para.52; S.I. 2014/954, art. 2(c)

- [<sup>F2</sup>5A. Advocacy in proceedings in the family court.]

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#### Textual Amendments

**F2** Sch. 1 Pt. 3 para. 5A inserted (22.4.2014) by [The Crime and Courts Act 2013 \(Family Court: Consequential Provision\) Order 2014 \(S.I. 2014/605\)](#), arts. 1, **26(a)**

- 6 Advocacy in the following proceedings in the Crown Court—
- (a) proceedings for the variation or discharge of an order under section 5 or 5A of the Protection from Harassment Act 1997, and
  - (b) proceedings under the Proceeds of Crime Act 2002 in relation to matters listed in paragraph 40 of Part 1 of this Schedule.
- 7 Advocacy in a magistrates' court that falls within the description of civil legal services in any of <sup>F3</sup>the following provisions of Part 1 of this Schedule—
- (a) paragraph 1(1)(e)
  - (b) paragraph 1(2) so far as relating to paragraph (1)(1)(e), and
  - (c) paragraphs 11(2), 12, 13(1)(e), 15 and 17(1)(a) and (b).]

#### Textual Amendments

**F3** Words in Sch. 1 Pt. 3 para 7. substituted (22.4.2014) by [The Crime and Courts Act 2013 \(Family Court: Consequential Provision\) Order 2014 \(S.I. 2014/605\)](#), arts. 1, **26(b)**

- 8 Advocacy in the following proceedings in a magistrates' court—
- (a) proceedings under section 47 of the National Assistance Act 1948,
  - (b) proceedings in relation to—
    - (i) bail under Schedule 2 to the Immigration Act 1971, or
    - (ii) arrest under Schedule 2 or 3 to that Act,
  - (c) proceedings for the variation or discharge of an order under section 5 or 5A of the Protection from Harassment Act 1997, and
  - (d) proceedings under the Proceeds of Crime Act 2002 in relation to matters listed in paragraph 40 of Part 1 of this Schedule.

#### *Exceptions: tribunals*

- 9 Advocacy in proceedings in the First-tier Tribunal under—
- (a) the Mental Health Act 1983, or
  - (b) paragraph 5(2) of the Schedule to the Repatriation of Prisoners Act 1984.
- 10 Advocacy in proceedings in the Mental Health Review Tribunal for Wales.
- 11 Advocacy in proceedings in the First-tier Tribunal under—
- (a) Schedule 2 to the Immigration Act 1971, or
  - (b) Part 5 of the Nationality, Immigration and Asylum Act 2002.
- 12 Advocacy in proceedings in the First-tier Tribunal under—
- (a) section 40A of the British Nationality Act 1981, or
  - (b) regulation 26 of the Immigration (European Economic Area) Regulations 2006 (S.I. 2006/1003),
- but only to the extent that the proceedings concern contravention of the Equality Act 2010.

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- 13 Advocacy in the First-tier Tribunal that falls within the description of civil legal services in paragraph 28, 29 or 32(1) of Part 1 of this Schedule.
- 14 Advocacy in proceedings in the First-tier Tribunal under—
- (a) section 4 or 4A of the Protection of Children Act 1999 (appeals and applications relating to list of barred from regulated activities with children or vulnerable adults),
  - (b) section 86 or 87 of the Care Standards Act 2000 (appeals and applications relating to list of persons unsuitable to work with vulnerable adults),
  - (c) section 32 of the Criminal Justice and Court Services Act 2000 (applications relating to disqualification orders), or
  - (d) section 144 of the Education Act 2002 (appeals and reviews relating to direction prohibiting person from teaching etc).
- 15 Advocacy in proceedings in the Upper Tribunal arising out of proceedings within any of paragraphs 9 to 14 of this Part of this Schedule.
- 16 Advocacy in proceedings in the Upper Tribunal under section 4 of the Safeguarding Vulnerable Groups Act 2006.
- 17 Advocacy in proceedings in the Upper Tribunal under section 11 of the Tribunals, Courts and Enforcement Act 2007 (appeals on a point of law) from decisions made by the First-tier Tribunal or the Special Educational Needs Tribunal for Wales in proceedings under—
- (a) Part 4 of the Education Act 1996 (special educational needs), or
  - (b) the Equality Act 2010.
- 18 Advocacy in proceedings which are brought before the Upper Tribunal (wholly or primarily) to exercise its judicial review jurisdiction under section 15 of the Tribunals, Courts and Enforcement Act 2007.
- 19 Advocacy where judicial review applications are transferred to the Upper Tribunal from the High Court under section 31A of the Senior Courts Act 1981.
- 20 Advocacy in proceedings in the Employment Appeal Tribunal, but only to the extent that the proceedings concern contravention of the Equality Act 2010.

*Other exceptions*

- 21 Advocacy in proceedings in the Special Immigration Appeals Commission.
- 22 Advocacy in proceedings in the Proscribed Organisations Appeal Commission.
- 23 Advocacy in legal proceedings before any person to whom a case is referred (in whole or in part) in any proceedings within any other paragraph of this Part of this Schedule.
- 24 Advocacy in bail proceedings before any court which are related to proceedings within any other paragraph of this Part of this Schedule.
- 25 Advocacy in proceedings before any person for the enforcement of a decision in proceedings within any other paragraph of this Part of this Schedule.

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