

## Changing solicitor

This factsheet is for individuals who already have a solicitor but, for a variety of reasons, may be unhappy with their current solicitor and would like to instruct a new one.

If you are paying for your solicitor's advice (and you do not receive legal aid), changing solicitors can be done quickly and without any formal court process. You should speak to the solicitor you would like to instruct about how to transfer your case to them.

The information in this factsheet outlines the stages that a person with legal aid needs to go through to change their legal aid solicitor.

### **I have found a new solicitor that I would like to represent me. What happens next?**

An application must be made to the court which is hearing your case. There is a specific form that should be filled in by you and the new solicitor. This is sent to the court which will then make a decision on whether your legal aid can be transferred to a new solicitor.

### **What information will the court need to know in my application?**

The court form asks for administrative details such as your name, address and a summary of the charges against you. It also asks for details of your current legal aid solicitor and why you chose them. It will ask you to list the details for your proposed new solicitor with a reason why you chose them.

You will also be asked to list the dates of all previous hearings as well as any planned future hearings. This is because the court will be assessing what stage of the case you are asking to transfer legal aid.

### **Will all applications to change solicitor be granted?**

There are legally defined grounds for changing legal aid solicitors and not all applications will be successful.

An application to change legal aid solicitors will only be successful if it meets one or two criteria.

1) The court is satisfied that effective representation can no longer be provided by your

present solicitors because:

- (a) there has been a breakdown in the relationship between you and the present solicitors, or
- (b) there is some other compelling reason

OR

2) The court is satisfied that:

- (a) your present solicitors consider they have a duty to withdraw from the case in accordance with their professional rules of conduct, or
- (b) your present solicitors are no longer able to represent you for reasons outside their control.

## **Will I need to write a supporting statement with my application?**

Yes. The court will need to know details about why you are unhappy with your solicitor, including dates and details of conversations that have taken place. You should also make clear why you would be unhappy with another solicitor from the same firm as your current solicitor taking over the case.

Unless your current solicitor is making an application themselves to withdraw from the case (the grounds in (2) above), you will have to decide which of the grounds in (1) (a) and (1) (b) apply to you.

## **Will I have to go to court to apply?**

Applications to change legal aid solicitor are usually decided on the papers. This means that unless you think that there should be a hearing that you can attend for the court to decide the issue, it will be decided on by looking at the detail in your application form.

## **Who can help me fill the form in and send this to the court?**

Usually, the new solicitor that you would like to represent you will help you fill the form out. This is because there is a section for them to fill in on the same form.

## **I have legal aid and am unhappy with my solicitor, but haven't found a new one. What can I do?**

Mencap can provide you with details on how to find a solicitor in your area. Contact the Learning Disability Helpline on 0808 808 1111 or email [helpline@mencap.org.uk](mailto:helpline@mencap.org.uk)

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We hope that you have found this factsheet useful. Whilst you are here, we have a small favour to ask. More people are using our service than ever before. We can't keep up with demand. We don't want to turn people away, and we want to keep on developing more information resources like this factsheet, but we don't have enough money to expand. So you can see why we need to ask for your help. We know that our information and advice can make a real difference to the quality of life of the people we support. If people using our service could help to support us, our future would be much more secure.

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