

Judicial Review

Application for urgent consideration

This form must be completed by the Claimant or the Claimant's advocate if exceptional urgency is being claimed and the application needs to be determined within a certain time scale

The claimant, or the claimant's solicitors must serve this form on the defendant(s) and any interested parties with the N461 Judicial review claim form.

**To the Defendant(s) and Interested party(ies)
Representations as to the urgency of the claim
may be made by defendants or interested
parties to the Administrative Court Office by
fax – 020 7947 6802**

In the High Court of Justice Administrative Court	
Claim No.	
Claimant(s) <i>(including ref.)</i>	The Law Society
Defendant(s)	The Legal Services Commission
Interested Parties	Lord Chancellor and Secretary of State for Constitutional Affairs

SECTION 1 Reasons for urgency

In these proceedings the Law Society seeks a declaration that the inclusion in the Legal Services Commission's "Unified Contract" for legal aid providers of a broad power of unilateral amendment on notice contravenes EC and UK public procurement law. The Legal Services Commission has indicated that it intends to exercise that power in October 2007, when it plans to bring various amendments to the Unified Contract into effect. They include a wholly new contract specification, with a fundamental restructuring of how certain categories of work are paid for. As explained in more detail in paragraphs 29-35 of the witness statement of Desmond Hudson some firms adversely affected by the proposed changes if implemented are likely to have to terminate their contracts or go out of business, matters which could not be remedied if a court subsequently declared the power of amendment to be unlawful.

It is therefore necessary not only for the parties to this litigation but also for legal aid practitioners and the public that the legality of the Commission's power of amendment should be determined by the Court before the Legal Services Commission attempts to exercise it. Since the contract provides for the Legal Services Commission to give not less than 42 days' notice of an amendment (except in urgent cases), notice of any amendment would need to be given by 19 August 2007. The Law Society therefore seeks a substantive hearing (and judgment) before the end of July 2007.

The Law Society asks the Court to give the directions set out in the attached draft Order, providing a timetable leading to a hearing within the required timescale. The directions provide for an abridgement of time for the acknowledgement of service (to 2 May 2007). The Law Society asks the Court to consider the question of permission on the papers by 16 May 2007 or, if the court considers that an oral hearing is required, by May 25th 2007. The draft directions also provide for a measure of expedition in relation to subsequent procedural steps.

SECTION 2 Proposed timetable *(tick the boxes and complete the following statements that apply)*

- a) The N461 application for permission should be considered by 16 May 2007
- b) Abridgement of time is sought for the lodging of acknowledgements of service to 2 May 2007
- c) If permission for judicial review is granted, a substantive hearing is sought by 25 July 2007 (date)

SECTION 3 Interim relief (state what interim relief is sought and why in the box below)

A draft order must be attached.

SECTION 4 Service

A copy of this form of application was served on the defendant(s) and interested parties as follows:

Defendant

by fax machine to time sent
Fax time
give details

by handing it to or leaving it with
name The Legal Services Commission

by e-mail to
e-mail address

Date served
Date 20/4/07

Interested party

by fax machine to time sent
Fax time

by handing it to or leaving it with
name Department for Constitutional Affairs

by e-mail to
e-mail address

Date served
Date 20/4/07

Name of claimant's advocate

name
John Howell QC

Claimant (claimant's advocate)

Signed John Howell

IN THE HIGH COURT OF JUSTICE

Claim No. CO/ /2007

QUEEN'S BENCH DIVISION

ADMINISTRATIVE COURT

The Honourable Mr Justice []

B E T W E E N

THE QUEEN
on the application of
THE LAW SOCIETY

Claimant

- and -

THE LEGAL SERVICES COMMISSION

Defendant

DRAFT ORDER FOR DIRECTIONS

UPON the application of the Claimant;

IT IS ORDERED AND DIRECTED THAT:

1. Time for lodging acknowledgements of service be abridged to 4pm on 2 May 2007;

AND, IF PERMISSION IS GRANTED:

2. The substantive hearing (with a time estimate of 2 days) be listed to commence no later than 25 July 2007;
3. The Defendant shall file and serve detailed grounds for contesting the claim and any written evidence no later than 35 days before the substantive hearing;

4. The Claimant shall file and serve its skeleton argument, and, if so advised, evidence in response to the Defendant's evidence, no later than 21 days before the substantive hearing;
5. The Claimant do file a paginated and indexed bundle of all relevant documents required for the hearing no later than 21 days before the substantive hearing.
6. The Defendant shall file and serve its skeleton argument no later than 14 days before the substantive hearing;

Dated [] 2007