

## **Guidance on follow up work for or writing to or on behalf of a client**

Please read through *all* of the following.

### *Background*

The amount of advice and help a volunteer lawyer can or should give has never been really set down. What advice and assistance a client can receive partly depends on the resources RLAS has (virtually none) and also what a volunteer lawyer is willing to do outside of an advice session. RLAS is not like a law firm, the CAB or a law centre. We do not take on cases in the way they do. Our service is limited to (and publicised as) being ‘initial’.

What makes RLAS ‘unique’ is that a client gets the opportunity of having a meeting with a lawyer to discuss their problem and show their documents to a lawyer without charge. And for the client to be able have an exchange and discussion with the client.

Nowadays there are many consumer and legal-orientated forums (generalist or specialist) where people can post problems and have their problems answered either by non-lawyers or sometimes lawyers too. There are also websites run by lawyers where a person can obtain answers (often in writing) to their problems, either without charge or for a small fee.

### *Purpose of the guidance*

The purpose of this guidance is two-fold:

1. to set some parameters on what a volunteer lawyer should be doing and not doing. Not as a means of discouraging her or him in doing more than advising at an advice session.
2. highlighting that the trustees of RLAS are personally liable for the activities carried out on behalf of RLAS by the lawyer volunteers.

### *Guidance*

- 1 The primary aims of RLAS is for a lawyer volunteer
  - (a) to deal with a client’s problem or situation at an advice session;
  - (b) to provide her/his advice orally.
- 2 Where the client needs to complete a form or write a letter, etc then the client should be doing this her/him-self. The lawyer volunteer should not be doing this for the client, although the lawyer volunteer can dictate wording that the client can use in their communication.
- 3 If the lawyer volunteer believes there is a need to do further work outside of an advice session then such work should normally be confined
  - (a) to checking the legal position relating to a client’s problem (eg checking the

latest case law regarding the protection of tenant's deposit, where recent case law has changed on whether tenants can claim 3 times the value of the deposit if it is not protected within the statutory period); and/or

- (b) to providing further detailed advice and assistance on the client's problem (eg if the client wishes to commence a particular form of litigation, the lawyer volunteer wanting to establish which claim form the client needs and court fees); and/or
- (c) to obtaining information or details of other sources of information, assistance or help (eg name and contact details of specialist lawyers or other advice agencies).

### *What a lawyer volunteer should not be doing*

1 A volunteer lawyer should not

- (a) write letters/emails to third parties on behalf a client; and/or
- (b) deal with correspondence sent (however sent) from third parties concerning a client matter; and/or
- (c) telephone third parties or receive calls from third parties to deal with a client's problem.

Although if the lawyer volunteers does receive, eg a letter or email from a third party the lawyer volunteer can provide a polite response to indicate that they cannot deal with the correspondence and that the sender should contact the client directly.

2 A volunteer lawyer should not also

- (a) engage in detailed or prolonged correspondence, emails exchanges, telephone conversations etc with a client outside of an advice session; and
- (b) deal with a client problem which is raised outside of a RLAS advice session.

However, if a client asks a point of clarification on letter or email sent by the lawyer volunteer to the client, or if the client asks a further question which is not significant and wholly related to the problem s/he raised at an advice session and on which the lawyer volunteer has sent an email to the client, then the lawyer volunteer can respond to it.

*Example:* A client asks your advice about poor service s/he has received from her former solicitors. You give her/him basic information about making complaints against solicitors (need to have a formal complaints procedure etc). You also mention that the client has, among other things, the right to make a Data Protection Act 1998 subject access request. However, you remember that the Information Commissioner has produced guidance on holders of personal information should provide. You would like to provide the URL to the client but need to do this after the session when you

have located the URL. Subsequently, the client contacts you after s/he has made a subject access request because her/his former solicitors are claiming that they can charge for copying her file (in addition to the fee specified for subject access requests) and s/he wants to know whether they can do this. The lawyer volunteer can respond to this type of query, as it is limited, factual and related specifically to the advice given at an advice session. However, if the client had then asked, by email, for help with complete forms to commence litigation against the solicitors or wished to discuss, the methods and/or grounds for suing the former solicitors, the lawyer volunteer should not be responding by email, but asking the client to come to another RLAS advice session.

*What you must do when wishing to write (by whatever means) to a client (or receive correspondence/emails from a client*

Given that trustees are personally liable, all correspondence must be shown to a trustee prior to sending.

When any a correspondence or emails are sent by a lawyer volunteer (and any correspondence or emails are to a lawyer volunteer) they must be forwarded to the default RLAS email address (rlas@rlas.org.uk) or correspondence address (49 Moor Mead Road, St Margarets, TW1 1JS).

*Exceptions*

The above is the 'default' position. There will be exceptions to writing documents, completing documents or corresponding or dealing with third parties, primarily where:

- 1 the client is disabled and cannot write themselves or deal with third parties themselves, whether because of a physical or mental disability;
- 2 the permission of the trustees is obtained in advance.

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