

Defining Information and Advice

Type I – Active Information, Sign-posting and Explanation

This work refers to activities such as providing information either orally or in writing, sign-posting or referring the user to other available resources or services, and, the explanation of technical terms or clarifying an official document, such as a tenancy agreement or a possession order.

We make a distinction between the passive provision of information through the availability of leaflets, for example, in public places, libraries and so on, and active provision of information through providing assistance to the individual seeking assistance. These Standards are aimed at 'active' providers.

Type II – Casework

This includes:

- A diagnostic interview where the problem and all relevant issues are identified and
- Making a judgement as to whether the individual has a case that can be pursued

Once it has been established that the individual has a case that can be pursued, activities may include:

- Setting out an individual's options or courses of action
- Encouraging the user to take action on their own behalf
- Providing practical aid with letters or forms
- Negotiating with third parties on the user's behalf
- Introducing the enquirer by referral to another source of help and
- Support to users in making their own case

Type III –Representation and Mediation at Tribunal or Court Action Level

This work includes a range of further actions arising from the casework undertaken above. This may have been undertaken by the adviser preparing

the tertiary work or may have come to the adviser by referral from another organisation or adviser.

The principal activities may include:

- Advocacy and Representation – where the adviser may prepare a case for the user and represent or speak on their behalf at a tribunal or court.
- Mediation – where the adviser may act on behalf of the user by seeking to mediate between the user and a third party.

Type III work includes some activities that can only be undertaken by lawyers.

Competences

1. Generic Competences

The following competences are generic competences for all advisers, and the agencies they work for, and which provide advice about housing issues and/or money related advice.

1.1 Effective Interviewing

Adviser Competence

Interviews clients effectively as part of holistic advice-giving. This includes evidence of the following:

For Type I

- Behaves in a welcoming manner and gives the client full attention
- If interviewing by telephone, calls clients back immediately when telephoned
- Explains service and own role to clients
- Puts clients at ease, even when clients may be distressed or challenging
- Enables clients to explain the problem and its context

- Acknowledges clients' feelings and perception about the problem
- Does not judge clients or their attitudes and values
- Uses a rights-based perspective throughout the interview when exploring legal issues
- Explains and provides information on options
- Explores fully and clarifies the presenting problem, and any other problems, the context and clients' feelings
- Gathers relevant key information, such information being driven by the advice category
- Rephrases any questions within forms in order to enable clients to provide more easily accurate and concise information which supports their case or provides relevant information which has not been sought via the questions on the form
- By use of appropriate language and non-verbal communication, demonstrates a sensitivity towards diversity, equality and discrimination issues, including cross-cultural and disability awareness
- Identifies relevant dates and action taken on any problems so far
- Explores clients' situation to identify any barriers to exercising rights or meeting commitments and liabilities
- Identifies when an interview via trained interpreter is appropriate and able to meet these competences when using interpreter
- Closes interview in appropriate manner, agreeing future contact arrangements. Issues any standard paperwork (e.g. consent to act for client)
- Abides by agency confidentiality policy

For Types II and III

As for Type I plus:

- Probes and follows communication cues to identify additional problems

- Helps clients to identify key issues, priorities, goals and information needs
- Summarises actions to be taken, next steps and any follow up work. Explains boundaries and role of service. Agrees roles and responsibilities of adviser and client.
- Asks specific questions and probes surrounding facts to gather sufficient information from clients to undertake legal research (i.e. a "diagnostic interview") and where appropriate offers a benefit check, where this is declined, it should be recorded clearly in the case notes
- Identifies where information is insufficient for proper diagnosis and assists clients to gather further information or make appropriate referral
- Checks clients' understanding of their responsibilities when using the service
- Checks clients' understanding of advice given and action to be taken

Agency Competence

Provides the infrastructure for effective interviewing. This includes evidence of the following:

For Types I, II and III

- Provides accessible interview facilities and adequate systems for responding to incoming telephone calls where premises allow
- Has proformas or computer software for carrying out a benefit check
- Has interview facilities which are adequately soundproofed, comfortable and pleasing
- Where space allows, has suitable facilities for any children (toys, reading materials) who may accompany clients
- Has arrangements for managing incoming enquiries/work

- Facilitates or provides training and supervision arrangements which enable advisers to meet and maintain their competence in interviewing
- Has arrangements for access to interpreters and facilities to enable interpreters to work effectively
- Encourages an organisational culture which is based on respect for clients, non-judgementalism and an appropriate rights perspective
- Has standard paperwork for initial interviews (e.g. a leaflet explaining the service, consent to act forms)
- Has a client confidentiality policy
- Complies with data protection and health and safety requirements

1.2 Recording and Managing Casework

Adviser Competence

Records advice and advocacy effectively. This includes evidence of the following:

For Types I, II and III

- On paper based systems: makes legible, succinct notes which enable other advisers, supervisors, auditors and clients to understand all key information in the case. These notes should include advice given; actions taken; copy of the benefit check if appropriate; roles and responsibilities and the outcome of the case. Case recording should also clearly set out the context of the advice given and actions taken i.e. in relation to the information provided by the client. Case recording should also provide evidence of **1.1 Effective Interviewing**
- On computer based systems: makes appropriate use of any agency computerised record system to make succinct notes which enable other advisers, supervisors, auditors and clients to understand all key information in the case. These notes should include advice given; where appropriate a copy of benefit check; actions taken; roles and responsibilities and the outcome of the case. Case recording should also clearly set out the context of the advice given and actions taken

i.e. in relation to the information provided by the client. Case recording should also provide evidence of **1.1 Effective Interviewing**

- Records key social policy issues which arise in casework and complies with any agency system for actioning or recording these
- Records/notes any agency statistics
- Records/notes any deadlines/key dates (including any dates for follow up action)
- Retains copies of any implementation plans given to clients
- Where appropriate copies correspondence to clients
- Makes copies of any relevant documents (including claim forms) and keeps with case reco
- Records outcomes of case
- Communicate to client where no further action will be taken by the agency e.g. case closing procedure

Agency Competence

Provides the infrastructure for effective recording. This includes evidence of the following:

For Types I, II and III

- Has adequate office facilities and user friendly guidelines and stationery
- Provides access to photocopying facilities
- Has sufficient access to computers for any computerised case recording system with suitable software
- Provides adequate support/administrative staff to enable systems to minimise impact on adviser
- Has a policy and training to enable adviser to record competently
- Monitors to enable adviser to maintain adequate records
- Has a procedure for case closure

- Has a policy about access to records e.g. client agreement to case being audited; mandate or opt out box option
- Uses systems for security and/or back-up of case records
- Complies with relevant legislation (e.g. data protection)

1.3 Time Management

Adviser Competence

Manages time effectively. This includes evidence of the following:

For Types I, II and III

- Ensures deadlines are met
- Timeously informs service user of outcome
- Prioritises work in an appropriate manner
- Appropriately uses appointments with sufficient time to undertake the tasks associated with advice work
- Where contractually required (e.g. for Legal Aid), accurately records time spent on enquiries/cases

Agency Competence

Provides the infrastructure for effective time management. This includes evidence of the following:

For Types I, II and III

- Facilitates or provides training and support where necessary to enable adviser to manage time effectively
- Has operational systems to make effective use of adviser time which has a balanced approach taking account of time for case recording, case work and research
- Has systems to manage incoming work including a balanced policy on appointments, drop-in and home visits, and which takes into consideration time required for case recording, casework and research

- Where contractually required (e.g. Legal Aid), has systems for recording time spent on enquiries/cases

1.4 Legal Research and Feedback

Adviser Competence

Undertakes legal research effectively. This includes evidence of the following:

For Type I

- Locates and retrieves information relevant to clients' enquiries
- With support, locates and retrieves information relevant to clients' enquiries in a standard, current textbook and/or information system
- Uses second tier advice and/or specialist services to help research the law
- Identifies where urgent action is necessary including to meet time limits
- Provides appropriate and sufficient information for clients and explains it clearly and accurately in a way they can understand
- Provides clients with sign-posting information or internal/external referral

For Type II

As for Type I plus:

Undertakes legal research effectively. This includes evidence of the following:

- Gathers and/or clarifies relevant facts by interview, telephone or e-mail with third parties
- Helps clients to re-assess their situation and goals in the light of the information

- Researches relevant legislation and case law, government, regulatory and industry guidance and Codes of Practice, policy statements, etc
- Assesses the chances of success of different options and provides feedback and advice about the possible options which arise
- Discusses all options and their consequences with clients
- Helps clients to assess the appropriateness of the options and to make an informed choice
- Where clients are unable to make an informed choice advises, if possible, on gathering further information and further consideration of options
- Checks clients' understanding of the advice given and where necessary, provides a written summary

For Type III

As for Types I and II plus:

- Researches relevant legislation and procedural protocols for litigation

Agency Competence

Enables effective legal research. This includes evidence of the following:

For Types I, II and III

- Has adequate supplies of up-to-date handbooks and annotated legislation and other books or CD- ROM versions which are appropriate for the Type of advice work being undertaken
- Has adequate internet facility to access online resources, including an electronic information system, where applicable.
- Provides access to any law reports, journals, articles, etc which are appropriate for the Type of advice work being undertaken
- Has access to second tier and/or specialist advice
- Has access to supervision which includes technical/legal advice and help (see Introduction to these competences)

- Has arrangements for checking the quality of advice given and recorded
- Promotes a working atmosphere which encourages careful legal research and provides good quality feedback

1.5 Form Completion

Adviser Competence

Effectively completes forms for all areas of advice. This includes evidence of the following:

For Types I, II and III

- Understands the purpose of each form and when it should be used
- Uses a rights perspective when presenting evidence
- Includes concise, relevant statements of evidence/information
- Attaches additional relevant information/evidence where appropriate or required e.g. Minimal Asset Scheme (MAP)
- Ensures clients agree the information and how it is presented
- Makes arrangements for follow-up of forms which are submitted
- Checks accuracy of information on forms completed by third parties

Agency Competence

Provides the infrastructure for effective form completion. This includes evidence of the following:

For Types I, II and III

- Has Internet access
- Has information to enable correct forms to be obtained by advisers
- Has arrangements for checking the quality of form completion

1.6 Effective and Appropriate Referrals

Adviser Competence

Recognises own and agency's limits and makes effective and appropriate referrals. This includes evidence of the following:

For Type I

- With advice and support from a **Type II** or **III** adviser, recognises limits of expertise and accurately identifies when an internal or external referral may be needed
- Gives clients all relevant information about possible referral to help them to decide whether it is appropriate
- Gives clients any help needed to minimise any barriers to pursuing a referral
- Makes referral to another agency which is better placed to deal with the matter after ascertaining availability of service, access times/arrangements, communicating with the other agency
- Informs clients of likely costs or eligibility for help with costs if agency being referred to makes charges for services

For Types II and III

As for Type I plus:

- Recognises cases which are either beyond the scope of the agency or which the adviser does not have sufficient knowledge and experience to advise about
- Liaises with other agency to ensure a smooth transfer of the work
- Supplies relevant factual details and documents

Agency Competence

Provides the infrastructure for effective referrals. This includes evidence of the following:

For Types I, II and III

- Fosters an organisational culture which enables advisers to acknowledge limitations openly
- Has information about other local and national agencies which may help
- Has an internal and external referral procedure which includes feedback on.
- Has regular contact and liaison with other advice agencies to improve knowledge of services they may offer
- Has information on Legal Aid eligibility and possible contributions to costs

1.7 Negotiation/Advocacy

Adviser Competence

Negotiates when appropriate and effectively. This includes evidence of the following:

For Type I

- With access to advice and support intervenes on behalf of clients in less complex situations and with the person who can make decisions in the client's case

Types II and III

As For Type I plus:

- Intervenes in more complex situations
- Distinguishes when negotiation/advocacy is and is not appropriate
- Distinguishes when negotiation/advocacy should be in writing or by phone and confirms verbal negotiations in writing
- Uses an appropriate negotiation/advocacy technique or has had training or development in negotiation skills to secure best outcome for clients
- Establishes effective communication channels through liaison with relevant bodies

Agency Competence

Provides the infrastructure for effective negotiation/advocacy. This includes evidence of the following:

For Type I

N/A

For Types II and III

As For Type I plus:

- Has arrangements for advice and support to enable advisers to intervene in less complex situations
- Has guidance, support and supervision arrangements so that other advisers can determine when negotiation/advocacy is appropriate
- Provides support and help when negotiations/advocacy are unsatisfactory and to enable advisers to negotiate effectively
- Has access to negotiation/advocacy skills training

1.8 Representation and Litigation

Adviser Competence

Represents and litigates effectively. This includes evidence of the following:

For Type I

- Not relevant

For Type II

- Understands when a conflict of interest may arise and follows agency policy
- Understands the role and ethics of advocacy in representation and litigation
- Accurately judges when representation and/or litigation is an option for clients

- Recognises when skilled legal help is required
- Meets all deadlines involved in litigation and understand and uses any rules which allow litigation after a normal deadline
- Understands the correct legal remedy(ies) for particular problems
- Understands and explains any risks associated with litigation to clients
- Uses the possibility of litigation to strengthen clients' position during negotiation

For Type III

As for Type II plus:

- Undertakes representation at Court according to rights of audience, subject area of expertise and any local practices about representation
- Undertakes representation at tribunals
- Understands relevant Court rules, protocols and procedures and basic principles of rules of evidence (e.g. hearsay)
- Has impact and credibility as a representative because:
 - has a good knowledge of subject area
 - can show links with other relevant areas of law
 - has a good understanding of relevant evidence
 - retains objectivity
 - and presents the above in a structured, coherent and persuasive manner both in writing and orally
 - demonstrates an ability to "think on their feet" in a Court/litigation environment
- Challenges negative decisions, actions or legal interpretation which may be adverse to client
- Is prepared to pursue an appeal/case to a conclusion where resources allow and where competent to do so

- Identifies errors of law in decisions of the First-tier Tribunal in order to find grounds for appeal to the Upper Tribunal or makes a referral if not within the remit of the organisation

Note: Some **Type III** activities may only be performed by lawyers

Agency Competence

Provides the infrastructure for effective representation and litigation. This includes evidence of the following:

For Types II and III

- Has a policy on managing conflicts of interest
- Provides supervisory help and support when representation or litigation is complex
- Provides access to sufficient specialist reference books
- Uses second tier advice and advocacy where available and appropriate
- Has regular contact and liaison with other advice agencies to improve knowledge of services they may offer
- Provides access to training and development opportunities to enable advisers to develop and improve representational skills and to access sources of representation
- Has administrative systems to enable key deadlines to be met and written submissions to be made
- Has liaison arrangements with Courts, to resolve difficulties which may arise

1.9 Information Technology (in addition to where covered above)

Adviser Competence

Makes effective use of information technology for advice and advocacy. This includes evidence of the following:

For Types I, II and III

- Uses any case recording, social policy, debt advice or welfare benefits software required by agency

For Type II and III

As For Type I plus

- Provides more detailed and precise advice about future options e.g. better off calculation

Agency Competence

Enables advisers to make effective use of information technology. This includes evidence of the following:

- Has sufficient access to computers with up-to-date, relevant software, Internet access and CD- ROMS (if the latter are used)
- Provides access to relevant IT training and support
- Has a policy on IT use

1.10 General Benefits Checking, Income Maximisation & Information Gathering

Adviser Competence

Undertakes a holistic assessment of benefits and tax credits and gathers relevant information in order to begin the process of income maximisation. This includes evidence of the following:

For Type I

- Asks questions to check which benefits and/or tax credits are being received
- Identifies common situations where people may be able to receive a benefit or a higher rate of benefit
- Identifies common changes of circumstances which can affect benefit entitlement

- Identifies common situations where claiming may have adverse consequences (e.g. if client or a family member is subject to immigration control) and seeks advice
- In possible fraud cases, follows the agency's procedure
- Identifies possible claims for backdating
- Identifies need for other advice in other areas
- Identifies social policy issues e.g. local office practice, implications of changes to the law

For Type II

As For Type I plus:

- Identifies situations where urgent action is needed and ensures that appropriate action is taken
- With advice, support and supervision, assists clients with claims for benefits and tax credits
- Progress chases benefit and tax credits applications and payments
- Has the skills and knowledge to access information on this topic in order to be able to respond to clients
- With advice, support and supervision in complex cases, dispute or appeal benefit decisions or request supersessions to the appropriate service/office
- After seeking advice, identifies cases for referral to a more specialist adviser
- Collects information from client, social security/tax credit sources which enables an accurate, multiple benefit/tax credit check to be done manually or on computer and details kept on file. Assesses the strengths and weaknesses of the case, the potential outcomes and consequences of different strategies and reassesses these in the light of the facts, possible counter-arguments and time limits
- Researches entitlement to benefits and higher amounts
- Has a good working knowledge of changes of circumstances which affect benefit entitlement

- Contacts benefit and tax credit offices by phone and letter

For Type III

As for Types I and II plus:

- Writes detailed letters for mandatory reconsideration, appeal, revision and supersession requests.

Agency Competence

Enables advisers to undertake holistic benefit/tax credit assessments. This includes evidence of the following:

For Types I, II and III

- Has pro-formas or computer software for carrying out a benefits/tax credits check
- Has a policy on advising in cases of actual or suspected fraud
- Participates in liaison arrangements between relevant agencies
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

Housing

2.1 Rent Arrears

Adviser competence

Advises and assists people who have rent debts. This includes evidence of the following:

For Type I

- Has an understanding of the main types of housing tenure and an ability to explain these to clients
- Understands in outline, the legal and administrative procedures for rent arrears and evictions, including Local Authority Pre-Action Requirement duties under the Housing (Scotland) Act 2010 and lender Pre-Action Requirement duties under the Home Owners Debtor Protection Act 2010
- Has a basic understanding of local landlords' policies and procedures relating to rent arrears and evictions, in particular main social landlord
- Understands what bankruptcy is and the affect this has on rent arrears in the private and public sectors
- Understands the need to respond in terms of section 11 notices under Homelessness etc (Scotland) Act 2003
- Knows the likely triggers for debt (e.g. mental or other illness, relationship breakdown, unemployment), checks on these sensitively and has knowledge of agencies which may hel
- Has a basic knowledge of disrepair and procedures to refer to a specialist adviser
- Recognises common documents such as Notice to Leave, Notice to Quit and Notice of Proceedings. Is able to identify emergency situations and can refer to a Type II or III advise
- Can identify if the client may be vulnerable and refers to Type II adviser to get Local Housing Allowance/Universal Credit Housing Element paid directly to landlord to prevent arrears

For Types II and III

As for Type I plus:

- Has good understanding of the legal procedures for recovery of possession due to rent debt by type of residential tenancy
- Has good knowledge of policies and procedures used by main local social landlords
- Understands what bankruptcy is and the effect this has on rent arrears in the private and public sectors and can fully explain this, and the potential consequences, to a client.
- Has knowledge of historic debts and prescription and can respond to debtors
- Has good knowledge of all relevant matters for rent arrears in private rented sector and the significance of level owed
- Assists the client to apply for Housing Benefit/Universal credit for Housing Costs and/or Discretionary Housing Payment. Assists client with backdate
- Understands the need to respond in terms of section 11 notices under Homelessness etc (Scotland) Act 2003 (see also Housing Specific Competence 2.10 Homelessness in particular prevention)
- Takes relevant action following receipt of common client documents such as Notice to Leave, Notice to Quit and Notice of Proceedings
- Contacts landlord to seek emergency action or suspension of eviction (see also Housing Specific Competence 2.7, Eviction)
- Has good knowledge of the scope for possible defences against possession actions and existence of procedures for bringing a case back before a court or tribunal (e.g. recall procedure) and is able to assist or make an appropriate referral
- Negotiates verbally and in writing with landlord to protect client's position and make repayment offers (and in accordance with Scottish National Competences for Money Related Advisers, 4.20, 4.21, 4.22, 4.23)

- Identifies common legal defences or counterclaims and refers to a solicitor (or where the option is permitted, to a suitably qualified and experienced lay representative) who is skilled and knowledgeable in this area
- Identifies possible options for counterclaims (for example where there may be a damages claim due to dampness or disrepair) and refers to an appropriately qualified representative. Identifies appropriate strategies and actions to prevent homelessness and stabilise tenancies. Understands the potential of housing support to achieve positive outcomes for clients
- Is able to advise fully on potential consequences of rent arrears in terms of housing allocations and homeless applications

Note: Where possible, clients facing eviction should be referred to a solicitor (or where the option is permitted, to a suitably qualified and experienced lay representative) who is skilled and knowledgeable in this area at as early a stage as possible

Agency competence

- Enables advisers to provide advice and advocacy about rent debts.

This includes evidence of the following:

- Has leaflets, reference books and/or access to electronic sources on security of tenure, First-Tier Tribunal and Court procedures e.g. Shelter Scotland website
- Has information about possession procedures, preferably in a format which can be copied or given to clients
- If agency does not provide debt advice, has contact details in order to make appropriate referrals
- Has database or contact information and referral forms for solicitors who will take on rent arrears cases, or appropriate Type 111 services
- Has contact details for Sheriff Officers, Housing & Property Chamber (First-Tier Tribunal), local registered social landlords and major local

private landlords. Has copies of current Codes of Practice and rent arrears policies

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

2.2 Mortgages / Secured Loans

Note The correct term in Scotland is secured loan. However the term mortgage is widely used and has entered statute via the Mortgage Rights (Scotland) Act 2001. The terms mortgage and secured loan are used interchangeably in this section.

Adviser competence

Advises and assists people who have mortgage/secured loan debts. This includes evidence of the following:

For Type I

- Has an understanding of the different types of mortgage/secured loan and an ability to explain these to clients
- Also has knowledge of low-cost buying schemes such as Low-cost Initiative for First Time Buyers (LIFT) and able to explain this to client
- Knows the likely triggers for debt (e.g. mental and other illness, relationship breakdown, unemployment), checks on these sensitively and has knowledge of agencies which may help
- Understands in outline, the procedures for mortgage/secured loan arrears and repossessions
- Has an understanding of potential assistance that the Home Owner and Debtor Protection (Scotland) Act 2010 and the Bankruptcy (Scotland) 2016 Act can give to Home Owners and Entitled Residents in

the context of actions to recovery possession, sequestration and trust deeds

- Recognises common documents and identifies emergency situations and refers to a Type II or III adviser, for immediate "first aid" advice about options
- Has basic understanding of Home Owners Support Fund (Mortgage to Rent Scheme and Mortgage to Shared Equity Schemes).

For Type II

As for Type I plus:

- Knows in outline the procedures and Codes of Practice for mortgage/secured loan arrears and ejections
- Knows in detail the appropriate use of Part 1 and Part 2 of the Home Owner and Debtor Protection (Scotland) Act 2010 in the interests of Home Owners and Entitled Residents
- Knows in detail the eligibility criteria of the Home Owners Support Fund (Mortgage to Rent Scheme and Mortgage to Shared Equity Schemes).
- Contacts lenders to seek emergency action to prevent repossession. Understands summary application procedure relating to recall of decree and conditions relevant to recall.
- Understands the need to respond in terms of section 11 notices under Homelessness etc (Scotland) Act 2003) and recognise the extension of this duty to Trustees in Bankruptcy and Trust Deeds. Understands the need to respond in terms of section 11 notices under Homelessness etc (Scotland) Act 2003). Recognises the extension of this duty to Trustees in Bankruptcy and Trust Deeds under Section 40(3B) to the Bankruptcy (Scotland) Act 1985.
- Knows in outline arrangements for regulating mortgages/secured loans. Negotiates verbally and in writing with lenders in order to protect client's position and make repayment offers.

- Identifies appropriate strategies for dealing with mortgage/secured loan possession
- Has a good understanding of the legal aid system and financial eligibility criteria
- Is aware of and able to explain rules regarding eligibility for Support for Mortgage Interest. Is able to make appropriate referral for Independent Financial Advice in relation to this for potential claimants.

For Type III

As for Types I and II plus:

- Has a good understanding of the consumer credit legislation and unfair contract terms defences to secured loans and small mortgages including prescription/limitations and inhibition
- Identifies possible defences such as undue duress
- Has a good understanding of procedures used by main lenders
- Has an understanding of potential assistance that the Home Owner and Debtor Protection (Scotland) Act 2010 and the Bankruptcy (Scotland) 2016 Act can give to Home Owners and Entitled Residents in the context of actions to recovery possession, sequestration and trust deeds
- Has detailed knowledge of the procedure for a creditor to seek remedies on default, understand the potential defences in such actions
- Has detailed knowledge of pre action requirements on creditors in terms of relevant actions
- Has detailed knowledge of the conditions and procedure for recall of decree
- Identifies possible legal defences and refers to a solicitor or where the option is permitted to a suitably qualified and experienced lay representative internally within their service or externally who is skilled and knowledgeable in this area (see agency competence below)

- Approved lay representative must comply with all the requirements of the Home Owners and Debtor Protection (Scotland) Act 2010 and all subsequent regulations and codes of guidance
- Knows in detail the eligibility criteria in terms of Home Owners Support Fund (Mortgage to Rent Scheme and Mortgage to Shared Equity Scheme). Has a good understanding of the legal aid system financial eligibility criteria.

Note: Where possible, clients facing ejection should be referred to a solicitor (or where the option is permitted to a suitably qualified and experienced lay representative) who is skilled and knowledgeable in this area at as early a stage as possible

Agency competence

Enables advisers to provide advice and advocacy about mortgage/secured loan debts. This includes evidence of the following:

- Has information about mortgages/secured loans, preferably in a format that can be copied or given to clients
- Has information about possession procedures, preferably in a format which can be copied or given to clients
- Approving Agencies authorising lay representatives must comply with all the requirements of the Home Owners and Debtor Protection (Scotland) Act 2010, all subsequent regulations and codes of guidance
- Approving Agencies must ensure that approved lay representatives are skilled and able to satisfy Sheriffs that the adviser is competent to represent the interests of the debtor or entitled person as an approved lay representative within the limitations of the Home Owner and Debtor Protection (Scotland) Act 2010
- Has information about priority creditors, their Codes of Practice and their legal responsibilities and a system for updating these
- Has contact details for Sheriff Officers, common lenders and copies of current Codes of Practice

- Agency has good professional relationship with the Sherriff Clerks office/offices
- Agency has access to all the relevant and up to date rules of the Court
- Has list of specialist legal advisers, knowledge of the legal aid system financial eligibility criteria
- Has good links with local money advice and welfare rights service providers
- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

2.3 Help with Rent and Council Tax

Adviser competences

Note – this competence is covered in Section 4 – Welfare Benefits – in the competences under [4.2 \(a\) and 4.2\(b\)](#)

Advises and advocates effectively about Universal Credit for housing costs and Housing Benefit. This includes evidence of the following:

For Type I

- Has a basic understanding of means–tested benefits and the relationship with Housing Benefit and an understanding of Universal credit for housing costs and is able to explain these to clients
- Has a basic understanding of the eligibility rules including how the roll out of Universal Credit will affect clients in their job centre area

- Has a basic understanding of rules relating to backdating, and overpayments. Explain to the client/recognise where this may be applicable and refer to Type II adviser
- Has an understanding of what eligible housing costs are, the relationship to different types of tenure/tenancy, non-dependant deductions and the ability to explain them to users
- Has an understanding of the under-occupation penalty
- Has an understanding of the benefit cap
- Has a basic knowledge of Discretionary Housing Payments
- Has a basic knowledge of local authority duties, policies and appeal/decision-making procedures
- Has a basic knowledge and understanding of local rent levels and who is eligible for local housing allowance
- Can identify if the client is vulnerable and able to get Housing element of Universal Credit/ Housing Benefit paid to landlord and refer to a Type II or III adviser
- Has a basic knowledge of the disputes and appeals system including timescales relating to Universal Credit/Housing Benefit

For Type II

As for Type I plus:

- Knows how Housing Benefit is calculated and can explain entitlement to clients. Keeps a copy on file
- Is able to negotiate with relevant benefit officers to try to secure prompt and accurate payments of benefits due
- Has a detailed understanding of eligibility rules for Universal Credit/Housing Benefit and how to make a claim, this includes information requirements and timescales to submit
- Has a detailed understanding of rules relating to backdating, and overpayments including recovery and official error
- Is able to outline rules for Local Housing Allowance in relation to benefits

- Has a detailed understanding of the under-occupation rule and who it applies to
- Has a detailed understanding of the benefit cap and who it applies to

- Has knowledge of other benefits and passporting implications
- Has knowledge of Scottish Public Services Ombudsman service and procedures
- Has the skills and knowledge to access information on this topic (e.g. DWP Housing Benefit Guidance Manual), GOV UK website and is able to respond to clients
- Has a detailed knowledge and understanding of local rent levels and who is eligible for local housing allowance
- Can identify vulnerability for housing element of Universal Credit/ Housing Benefit to be paid to landlord and can assist with form completion
- Knows eligibility for Discretionary Housing Payment and can assist with claim
- Understands key legal concepts, researches relevant legislation and case law on the above, applies an interpretation which assists clients and advises on options
- Prepares letters to LAs which put across the above points succinctly and persuasively
- Has good understanding of exclusion of entitlement due to immigration status. Has good understanding of benefit rules applying to EEA nationals. Has a good understanding of habitual residence test and impact on entitlement
- Has a detailed knowledge of the disputes and appeals system including timescales

For Type III

As for Types I and II plus:

- Has a good knowledge of local authority reconsideration, appeals and complaints procedures, including complaints to the Ombudsman
- Prepares submissions to Tribunals which contain both a statement/summary of key evidence and legal submissions citing legislation and case law, where appropriate which supports clients' cases
- Undertakes representation before Tribunals (see Generic Competence 1.8, Representation and Litigation)
- Has a working knowledge of the legislation and case law
- Knows the key links with other areas of law

Agency competence

Enables advisers to advise and advocate effectively about Housing Benefit. This includes evidence of the following:

For Type 1, 11 and 111

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

Council Tax Reduction

Adviser competence

Advises and advocates effectively about Council Tax Reduction. This includes evidence of the following:

For Type I

- Has a basic understanding of means-tested benefits and the relationship with Council Tax Reduction and is able to explain these to clients

- Has a basic understanding of eligibility rules and how to apply
- Has a basic understanding of rules relating to backdating, and overpayments and refer to a Type II adviser if action required
- Has an understanding of non-dependant deductions and the ability to explain them to users
- Has a basic knowledge of local authority duties, policies and appeal/decision-making procedures
- Has a basic knowledge of the disputes and appeals system including timescales relating to Council Tax Reduction and refers to Type II or III adviser if the client wishes to dispute a decision

For Type II

As for Type I plus:

- Knows how to calculate Council Tax Reduction using a paper calculation sheet or computer software, can explain entitlement to clients and keep a copy on file
- Is able to negotiate with relevant benefit officers to try to secure prompt and accurate payments of Council Tax Reduction due
- Has a detailed understanding of eligibility rules for Council Tax Reduction and how to apply, this includes information requirements and timescales to submit
- Has a detailed understanding of rules relating to backdating, and overpayments including recovery
- Has knowledge of other benefits and passporting implications
- Has knowledge of Scottish Public Services Ombudsman Service and the Council Tax Reduction Review Panel procedures
- Has the skills and knowledge to access information on this topic (e.g. official guidance) and is able to respond to clients
- Understands key legal concepts, researches relevant legislation and case law on the above, applies an interpretation which assists clients and advises on options

- Prepares letters to LAs which put across the above points succinctly and persuasively
- Has good understanding of exclusion of entitlement due to immigration status. Has good understanding of benefit rules applying to EEA nationals. Has a good understanding of habitual residence test and impact on entitlement
- Is familiar with relevant legislation and case law
- Has a detailed knowledge of the disputes and appeals system including timescales

For Type III

As for Types I and II plus:

- Has a good knowledge of local authority reconsideration, appeals and complaints procedures, including complaints to the Ombudsman
- Prepares submissions to Tribunals which contain both a statement/summary of key evidence and legal submissions citing legislation and case law where appropriate which supports clients' cases
- Undertakes representation before Tribunals (see Generic Competence 1.8, Representation and Litigation)
- Has a working knowledge of the legislation and case law
- Knows the key links with other areas of law

Agency competence

Enables advisers to advise and advocate effectively about Council Tax Reductions. This includes evidence of the following:

For Type 1, 11 and 111

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy

- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

2.4 Disrepair in Rented Housing

Adviser competence

Advises and advocates competently about disrepair issues affecting tenants. This includes evidence of the following:

For Type I

- Has an understanding of the Scheme of Assistance
- Has an understanding of how disrepair contributes towards homelessness
- Has an understanding of different types of tenancy agreements, the likely consequences of any tenant action for each type of tenancy and the ability to explain these clearly
- Has an understanding of different types of disrepair and landlords obligations and make referral to Type II or III adviser
- Has an understanding of role of local authority environmental health departments and the landlords' registration scheme
- Has an understanding of minor disrepair, tolerable standards and the different options relating to tenancy types and where to refer for assistance for example, local authority and First-Tier Tribunal of the Housing and Property Chamber
- Has had basic training covering tenancy types, security of tenure and disrepair options and has access to up to date information sources
- Has a basic understanding of safety regulations and role of Health & Safety Executive

- Has a basic understanding of the regulations for Houses in Multiple Occupancy (HMO)
- Has basic understanding of common repair obligations in mixed tenure accommodation

For Type II

As for Type I plus:

- Is able to identify where disrepair may result in or have resulted in homelessness, and to identify strategies in order to prevent or to remedy that homelessness
- Knows when it is appropriate to refer the client to a solicitor (or where the option is permitted to a suitable qualified and experienced lay representative).
- Has an understanding of the initial steps that can be taken in order to secure evidence to support possible future claims for compensation
- Has an understanding of rent abatement procedures and can refer to type III agency for assistance
- Is able to identify when a client can take action in terms of the Repairing Standard and Tolerable Standard
- Has a good understanding of the role the First-Tier Tribunal of the Housing & Property Chamber has in disrepair cases
- Can act on behalf of and assist with liaising with the Scottish Public Services Ombudsman, tenant associations, environmental health departments and local councillors, as appropriate to the particular tenancy types
- Understands and is able to explain the different types of tenancy agreement, their implications for security of tenure and the options available for action on disrepair and potential for mediation and negotiation

- Can identify and record the main common types of disrepair and their causes, identify any damage to possessions and outline the options that may be available to the client
- Negotiates further action with tenant, ensuring client is aware of the likely housing and financial implications
- Negotiate with landlord, environmental health and other council departments to ensure that the clients aspirations are put to them clearly and in the context of their rights and entitlements in law
- Has an understanding of the Environmental Protection Act 1990 and matters relating to statutory nuisance.
- Has good understanding in terms of common repair obligations in mixed tenure accommodation

For Type III

As for Types I and II plus:

- Understands the potential role of other tenants and tenants' organisations in taking action
- Is able to contact them, advise and negotiate plans of action and liaise on client's behalf with a third party or agency and can assist in seeking compensation
- Where appropriate, and within the remit of the agency, is able to support the development of tenants' associations
- Has an understanding of the potential role of other occupants/ household members in taking action
- Has a detailed understanding of procedure in terms of withholding rent and seeking rent abatement in appropriate circumstances and can assist client
- Has a good understanding of the Environmental Protection Act 1990 and matters relating to statutory nuisance and can take appropriate action for client
- Understands the roles and obligations of landlords and environmental health departments and the Health & Safety Executive

- Is able to negotiate alternatives to enforcement action with relevant people
- Has a good knowledge of court and First Tier Tribunal procedures and practice which is maintained by training and annual updating
- Is able to represent client at First Tier Tribunal hearings in relation to disrepair

Note: This is a complex area and advocacy will, in most cases, be best done by solicitors skilled and knowledgeable in the area of law. The competences presume the involvement of a skilled and knowledgeable solicitor (or where the option is permitted, a suitably qualified and experienced lay representative) available to give advice on the relevant area of law.

Agency competence

Enables advisers to advise and advocate effectively about disrepair in rented housing. This includes evidence of the following:

For Types I, II and III

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

For Type I

- Has sufficient resources to support interviewing (including possible checklists) and information about other agencies which can deal with problems and issues identified
- Has written information to give to clients about benefits, rents and mortgages
- Has basic information about different types of tenure, preferably in a format that can be copied or given to clients
- Has information, appropriate to the remit of the service and needs of clients, about local housing authorities' and registered social

landlords' housing application procedures and allocations/transfers policies, preferably in a format that can be copied or given to client

- Has information about local mobility schemes preferably in a format that can be copied or given to clients
- Has information, appropriate to the remit of the service and needs of clients, about local maximum eligible rent levels for housing benefit and ways to challenge these preferably in a format that can be copied or given to clients
- Has information, appropriate to the remit of the service and needs of clients, about local rent deposit and/or guarantee schemes preferably in a format that can be copied or given to clients
- Has information, appropriate to the remit of the service and needs of the clients, about different types of mortgages, preferably in formats that can be copied or given to clients
- Has information, appropriate to the remit of the service and needs of clients, about low cost home ownership schemes in formats that can be copied or given to clients
- Has information, appropriate to the remit of the service and needs of clients, about relevant grant schemes e.g. crofters, home improvement, energy, etc.
- Has information, appropriate to the remit of the service and needs of clients, about roles of solicitors, conveyancers, surveyors and lenders, and, where appropriate, lists of local practitioners and information about the relevant professional bodies, all in formats that can be copied or given to clients
- Has information, appropriate to the remit of the service and needs of the clients, about the Letting Agency Code of Practice

For Type II

As for Type I plus:

- Has information appropriate to the remit of the service and needs of clients about offers policies of local housing authorities' homelessness procedures and local housing authorities' and registered social landlords' allocations procedures and policies in relevant areas
- Has sufficient resources appropriate to the remit of the service and needs of clients to support appeals activity including possible out of hours work presenting cases to committees etc. and has information about the Scottish Public Services Ombudsman service
- Has access within the remit of the service and needs of clients to information about local benefits offices and procedures and access to copies of relevant forms
- Has access within the remit of the service and needs of clients to an up to date reference resources covering private rented sector security, disrepair and other relevant issues
- Has agreed referral arrangements appropriate to the remit of the service and needs of clients with rent deposit/guarantee schemes
- Is able within the remit of the service and needs of clients to secure nomination or referral rights from local registered social landlords or liaise effectively with other referral agencies

For Type III

As for Types I and II plus:

- Resources to find others affected by disrepair in the same building/area (via casework records, visits, letters)
- Staff time for court and tribunal appearances and preparation
- Information available on roles and obligations of landlords and environmental health departments, preferably in a form that can be copied/passed to clients and landlords

Provides resources for training and annual updating

2.5 Housing options

Adviser competence

Advises competently about different housing options for clients. This includes evidence of the following:

For Type I

- Able to conduct a basic diagnostic interview to identify aspirations and key housing issues such as disrepair, homelessness, harassment or housing debt. (also see Generic Competence 1.1, Effective Interviewing)
- Has a basic understanding of benefits, rents and mortgages and knows when to refer to a Type II or II adviser
- Has an understanding, of tenure types and related rights (including, for example, those used in local authorities, registered social landlords and the private sector), and ability to explain them
- Has knowledge of the applications and allocations/transfers policies and practices of local housing authorities and local registered social landlords
- Has an understanding of local housing mobility schemes (mutual exchange, facilitated moves) and can explain these to clients
- Has a knowledge about eligibility for low –cost buying schemes such as Low–cost Initiative for First Time Buyers (LIFT) and explain different types of low cost of home ownership schemes including shared ownership
- Has a knowledge of homelessness legislation
- Within the remit of the service and needs of clients, has knowledge of local rent, local housing allowance, housing benefits levels and housing element of universal credit and can explain the significance of these to clients
- Has a knowledge, within the remit of the service and needs of clients, about local rent deposit and/or guarantee schemes
- Has a knowledge of how tenancy deposit protection schemes (e.g. Safe Deposit Scotland) and rent deposit, bond and rent guarantee schemes (e.g. run by a local authority or RSL) should be used by private landlords

- Is able, within the remit of the service and needs of clients, to explain different types of mortgages
- Is able, within the remit of the service and needs of the clients, to explain process of home purchase, the respective roles of solicitors, conveyancers, surveyors, lenders and the general financial implications of purchase
- Has knowledge of Home Owner's Support fund which includes the Mortgage to Rent and, Shared Equity Schemes.
- Has understanding of exclusion to social housing and rights under homeless provision due to immigration status, rules applying to EEA and Swiss nationals. Has a good understanding of habitual residence test and the impact this has on eligibility. Refer to a Type II or III adviser if the client is excluded due to immigration status or habitual residence
- Has knowledge on relationship breakdown relating to occupancy, for example Matrimonial Homes (Family Protection) (Scotland) Act 1981 and Civil Partnership Act 2004

Note: Only a qualified financial adviser can advise on mortgages/lending options. Debt and benefits advice is covered by the Money and Welfare Benefits Related Advice Competences

For Type II

As for Type I plus:

- Is able, within the remit of the service and needs of clients, to advise clients on consequences of acceptance, refusal and withdrawal of offers. Is able to give information on likely effects on benefits, further housing options and other rights
- Is able to explain the difference between number of offers of re-housing via homeless and waiting list applications and associated rights
- Is able to explain high and low demand areas and how to maximise their waiting list application. Can explain how allocations are made and how points are awarded

- Is able, within the remit of the service and needs of clients, to draw up and present appeals on offers and has adequate knowledge of the Scottish Public Services Ombudsman service and procedures
- Is able to assist clients in making new benefit claims or informing about changes in circumstances
- Has a good understanding of the Local Housing Allowance levels for their local area for private sector tenancies
- Is able, within the remit of the service and needs of clients, to advise about the implications of different types of tenancy agreement for security, repairs and other relevant issues
- Where appropriate, refers to rent deposit/guarantee schemes
- Provide information on a private landlord's responsibilities regarding tenancy deposit protection schemes, rent deposit, bond and rent guarantee schemes
- Is able to write referral or nomination report, liaising with other agencies as necessary, in order to maximise client's chances of acceptance
- Is able to write reports in support of application for transfer where appropriate and to assist tenant in appealing or challenging any decision
- Is able to explain tenure and related rights and implications of any move or exchange
- Has understanding of exclusion to social housing and rights under homeless provision due to immigration status and has a good understanding of habitual residence test and the impact this has on eligibility. Refer to a Type II or III adviser if the client is excluded due to immigration status or habitual residence
- Has knowledge of Home Owner's Support Fund which includes the Mortgage to Rent and Shared Equity Schemes.
- Is able to advise on relationship breakdown relating to occupancy, for example Matrimonial Homes (Family Protection) (Scotland) Act 1981 and Civil Partnership Act 2004

- Knows in outline the requirement of the Letting Agency Code of Practice

For Type III

As for Types I and II plus:

- Within the remit of the advice agency and subject to clients' wishes and needs is able to befriend and support clients new to tenancy arrangements (resettlement work) and has availability over first three months of tenancy
- Is able to mediate with local authorities, the Department for Work and Pensions and other relevant agencies to ensure tenancy arrangements are satisfactory for clients

Agency competence

Enables advisers to advise competently on housing options. This includes evidence of the following:

For Types, I, II and III

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

For Type I

- Has sufficient resources to support interviewing (including possible checklists) and information about other agencies which can deal with problems and issues identified
- Has written information to give to clients about benefits, rents and mortgages

- Has basic information about different types of tenure, preferably in a format that can be copied or given to clients
- Has information, appropriate to the remit of the service and needs of clients, about local housing authorities' and registered social landlords' housing application procedures and allocations/transfers policies, preferably in a format that can be copied or given to clients
- Has information about local mobility schemes preferably in a format that can be copied or given to clients
- Has information, appropriate to the remit of the service and needs of clients, about local maximum eligible rent levels for housing benefit and ways to challenge these preferably in a format that can be copied or given to clients
- Has information, appropriate to the remit of the service and needs of clients, about local rent deposit and/or guarantee schemes preferably in a format that can be copied or given to clients
- Has information, appropriate to the remit of the service and needs of the clients, about different types of mortgages, preferably in formats that can be copied or given to clients
- Has information, appropriate to the remit of the service and needs of clients, about low cost home ownership schemes in formats that can be copied or given to clients
- Has information, appropriate to the remit of the service and needs of clients, about relevant grant schemes e.g. crofters, home improvement, energy, etc.
- Has information, appropriate to the remit of the service and needs of clients, about roles of solicitors, conveyancers, surveyors and lenders, and, where appropriate, lists of local practitioners and information about the relevant professional bodies, all in formats that can be copied or given to clients

For Type II

As for Type I plus:

- Has information appropriate to the remit of the service and needs of clients about offers policies of local housing authorities' homelessness procedures and local housing authorities' and registered social landlords' allocations procedures and policies in relevant areas
- Has sufficient resources appropriate to the remit of the service and needs of clients to support appeals activity including possible out of hours work presenting cases to committees etc. and has information about the Scottish Public Services Ombudsman service
- Has access within the remit of the service and needs of clients to information about local benefits offices and procedures and access to copies of relevant forms
- Has access within the remit of the service and needs of clients to an up to date reference resources covering private rented sector security disrepair and other relevant issues
- Has agreed referral arrangements appropriate to the remit of the service and needs of clients with rent deposit/guarantee schemes
- Is able within the remit of the service and needs of clients to secure nomination or referral rights from local registered social landlords or liaise effectively with other referral agencies

For Type III

As for Types I and II plus

- Within the remit of the service, has adequate resources to support resettlement work
- Has adequate resources to support mediation and information about roles and responsibilities of agencies concerned in formats that can be copied to them and to clients

2.6 Discrimination in Housing

Adviser competence

To advise competently about discrimination in housing matters and possible remedies. This includes evidence of the following:

For Type I

- Has an understanding of public sector duty under the Equality Act 2010
- Has an understanding of the implications of various types of discrimination and also of the concepts of direct and indirect discrimination
- Is able to identify instances of possible discrimination and refer such instances on for advice by specialists
- Has an understanding of the existence of legal remedies against discrimination and understands the importance of specialist legal advice in cases involving discrimination to make appropriate referrals
- Is sensitive to the equal opportunities issues raised by potential discrimination and to the way in which clients may perceive the limitations of the law in dealing with this

For Type II

As for Type I plus:

- Can identify and explain the different types of discrimination, possible remedies and options for action, and explain them to the client
- Has a good understanding of the concept of reasonable adjustment in addressing discrimination against disabled persons
- Can identify the options for action, their security, financial and other relevant implications, and to negotiate with the client to determine how best to proceed
- Writes letters and negotiates on behalf of clients with landlords and other service providers as necessary, in order to challenge discrimination and promote the client's interests

- Has had initial training in discrimination legislation and also has access to information service or annual updating training, as well as access to additional updating if there are major legislative changes
- Is able to explain to clients their rights under the Equality Act 2010, in relation to their particular housing issue, and can refer to appropriate agency for assistance

For Type III

As for Types I and II plus:

- Understands the potential role of other agencies or organisations in taking action. Contacts them, advises and agrees plans of action
- Has adequate knowledge of court and tribunal procedures and practices maintained by training and an annual update
- Understands the appropriate actions to be taken to change discriminatory practices and compensate for discrimination
- Is able to negotiate alternatives to enforcement action with relevant parties.
- Can assist clients with issues regarding the Equality Act 2010

Note: This is a complex area and advocacy will, in most cases, be best done by a solicitor (or where the option is permitted by a suitably qualified and experienced lay representative) who is knowledgeable and experienced in this area of law.

Agency competence

Enables advisers to advise and advocate effectively about discrimination in housing. This includes evidence of the following:

For Types I, II and III

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy

- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

For Type I

- Has supporting information for clients about discrimination legislation, preferably in a form that can be copied or given to clients (e.g. leaflets from statutory enforcement bodies)
- Has access to up to date copies of all relevant codes of practice and guidance
- Has information about the role of statutory enforcement bodies, preferably in a form that can be copied or given to clients
- Has copies of, or access to, the policies relating to discrimination of the local authorities and main registered social landlords in the area covered by the advice service
- Provides equal opportunities training for all staff which covers discrimination and a supervision and support structure that encourages staff to continue learning in these areas
- Ensures information resources are kept up-to-date and accessible
- Has the resources to support initial training for all new advisers and provides annual updating, plus additional training if major changes occur

For Type II

As for Type I plus

- Has access to up to date information and reference sources (and an updating service) covering security of tenure, discrimination in housing and relevant Acts
- Has information about available resources for challenging discrimination, including representation by statutory enforcement bodies or solicitors (or, where permitted, suitably qualified and experienced lay representatives) skilled and experienced in this area
- Has information about local community groups that may offer support to clients

- Has the resources to support initial training for all new advisers, with annual updating and additional training if major changes occur

For Type III

As for Types I and II plus:

- Has resources to find other agencies or organisations which may take discrimination action
- Gives staff time for Court and Tribunal appearances
- Has information available on roles and obligations of landlords and other service providers in offering non-discriminatory services, preferably in a form that can be copied or passed to them

Has resources for initial training for all new advisers and annual updating and additional training if major changes occur

2.7 Eviction

Adviser competence

Advises competently about evictions. This includes evidence of the following:

For Type I

- Has an understanding of the different types of tenancy in Scotland
- Is aware of the different "grounds" for eviction actions across all tenancy types
- Understands security of tenure and awareness of "third party" rights (for example, the rights under the Matrimonial Homes (Family Protection) (Scotland) Act 1981 and Civil Partnership Act 2004) and also understands the rights of qualifying occupiers in tenancies under the Housing (Scotland) Act 2001). Has the ability to explain these to clients
- Has adequate knowledge of possession procedures to explain to clients
- Knows of the existence of post-possession remedies such as minute for recall of decree application for suspension and interdict, and an

ability to refer to practitioners who are knowledgeable and experienced in such procedures

- Knows the likely "triggers" for debt (for example, illness, relationship breakdown, unemployment), checks on these sensitively, and knows and can refer to suitable sources of money advice or other appropriate agencies
- Knows the other "triggers" for eviction proceedings and understands the distinction between 'mandatory' and 'discretionary' grounds for possession
- Understands the need for due process in eviction cases for most tenants and residential occupiers and can identify invalid notices
- Identify if client is vulnerable and refer accordingly

For Type II

As for Type I plus:

- Has an understanding of income maximisation through claiming benefit entitlements and refers client to a welfare rights adviser
- Understands debt prioritisation and refers to a money advice service
- Understands the need for due process in eviction cases for most tenants and residential occupiers. Understands the various possession notices required in all types of tenancy and the effect of errors in those notices
- Understands possible defences and remedial strategies in arrears and non-arrears possession actions and negotiates with landlords where feasible
- Can advise on any costs and other charges payable and negotiate payment arrangements
- Understands importance of admitting or not admitting to debt in terms of completing or not completing and returning summons response to Court

- Is aware of Housing Support agencies and their role in terms of preventing eviction and prevention of homelessness and can refer when appropriate
- Is able to identify rights to prevent eviction such as succession and to negotiate with landlord and/or formulate written appeal
- Ability to identify when advice required on money advice and possession proceedings in rented accommodation
- Kept updated annually with additional training for any major legislative change

For Type III

As for Types I and II plus:

- Understands First Tier Tribunal and court possession procedures and represents subject to court / tribunal rules (see Generic Competence 1.8, Representation and Litigation)
- Understands the role of officers of the court, for example sheriff officers
- Understands the need for due process in eviction cases for most tenants and residential occupiers and can identify and act on invalid notice
- Understands the various possession notices required in all types of tenancy and the effect of errors in those notices and can advocate on client's behalf in detail.
- Understands the various pre-court notices required in all types of tenancy and the effect of errors in those notices and can advocate on client's behalf in detail
- Understands need to refer to a money adviser to ensure whole debt situation is assessed before negotiation with creditors and landlords undertaken

Agency competence

Enables advisers to advise and advocate effectively about eviction. This includes evidence of the following:

For Types I, II and III

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

For Type I

- Has information about security of tenure (e.g. Scottish Government leaflets, CAS information system and Shelter website), where possible in a format that can be copied or given to clients
- Has information about possession procedures preferably in a format that can be copied or given to clients
- Has information about money advice and other agencies and adequate private space where clients can talk to advisers

For Type II

As for Type I plus:

- Has up- to- date text books or electronic equivalent on disrepair in rented accommodation and details of Court and Tribunal procedures

For Type III

As for Types I and II plus:

- Provides sufficient resources to provide more intensive support where necessary
- Provides sufficient resources to support Court and Tribunal appearances and possible inclusion in local Sheriff Court scheme and has up to date information on Court and tribunal procedures

- Provides sufficient resources to support negotiation work

2.8 Anti-Social Behaviour

Adviser Competence

Advises competently about anti-social behaviour and the remedies available to deal with same. This includes evidence of the following:

For Type I

- Understands and is aware of the legal definition of anti-social behaviour contained in relevant statutes
- Understands and is able to differentiate between persons suffering from anti-social behaviour and those alleged to be perpetrating anti-social behaviour
- Is aware of agencies where those accused of anti-social behaviour can be referred to
- Understands and is aware of the range of resources provided by local authorities to deal with anti-social behaviour
- Understands and is aware of the various non-court remedies available to deal with anti-social behaviour (e.g. housing management involvement/acceptable behaviour contract/mediation)
- Is aware of the range of court based (or First Tier Tribunal) remedies available to deal with antisocial behaviour (antisocial behaviour orders/eviction)
- Understands and is aware of the remedies contained within the Antisocial Behaviour etc (Scotland) Act 2004 to deal with antisocial behaviour
- Understands the impact of anti-social behaviour order on tenure in social housing sector
- Has had initial training, annual update and additional training about any legislative change, as required.

For Type II

As for Type I plus:

- Is able to liaise with appropriate authorities to advise in detail of the consequences of an anti-social behaviour order served on existing public sector tenant or potential public sector tenant
- Is able to advise in detail the consequence of an anti-social behaviour notice being served on a landlord
- Understands and can explain legal remedies on behalf of persons suffering from the anti-social behaviour of others
- Understands and is aware of possible defences or remedial strategies in actions raised against alleged perpetrators (e.g. anti-social behaviour orders and eviction actions)
- Understands the relevant court (or First Tier Tribunal) procedures involved in actions dealing with antisocial behaviour and standard of proof
- Can explain to client possible outcomes from Anti-Social Behaviour and give homeless advice where appropriate, (see standard 2.10)

For Type III

As for Types I and II plus:

- Understands Court procedures in connection with remedies under the Antisocial Behaviour Etc (Scotland) Act 2004 including procedures relating to closure orders, dispersal of groups, anti-social behaviour orders and anti-social behaviour notice and understands standard of proof e.g. civil or criminal tests.
- Understands court and First Tier Tribunal procedures in connection with eviction actions relating to anti-social behaviour and represents (or acts as a friend in the Sheriff Court) the person facing eviction
- Has had initial training on possession procedures (including possession action at the First Tier Tribunal) and Sheriff Court procedures and keeps knowledge up to date as necessary

- Negotiates with landlord to secure alternative resolution to action seeking eviction for anti-social behaviour
- Where homelessness has been caused by allegations of Anti-Social Behaviour explain and if necessary challenge intentionally homeless decision if appropriate
- Is able to make appropriate referral to assist persons complaining about anti-social behaviour to access potential court remedies to prevent anti-social behaviour

Agency Competence

Enables advisors to advise and advocate effectively about anti-social behaviour. This includes evidence of the following:

For Types I, II and III

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

For Type I

- Has information about anti-social behaviour (e.g. copies of relevant acts and Scottish Government Guidance) where possible in a format that can be copied or given to clients
- Has information about Court procedures and Court based remedies and First Tier Tribunal procedures, preferably in a format that can be copied and given to clients
- Has information about local authority services dealing with anti-social behaviour which can be provided in a format that can be copied or given to clients

For Type II

As for Type I plus:

- Has up to date books, or electronic information, leaflets and access to appropriate Scottish Government guidance
- Provides resources required to support necessary training

For Type III

As for Types I and II plus:

- Provides sufficient resources to support court and tribunal appearances and possible inclusion in local Sheriff Court scheme and has up-to-date textbooks or electronic equivalent on anti-social behaviour and relevant law and practice
- Provides sufficient resources to support required training
- Provides sufficient resources to support negotiation work

2.9 Harassment and Illegal Eviction

Adviser competence

To advise competently in cases of possible or actual harassment of tenants. This includes evidence of the following:

For Type I

- Understands different types of tenancy and the likely consequences of any tenant action for each type of tenancy and can explain these clearly (see also Housing Specific Competency 2.13, Security of Tenure)
- Understands definitions of harassment and illegal eviction and can explain these
- Understands that harassment and illegal eviction issues may underlie or be a counter-issue in other housing legal problems (e.g. rent arrears, housing benefit, homelessness)
- Understands and can clearly explain the options for clients wishing to take legal action about harassment and illegal eviction, such as contacting the Police, Council and or solicitor

- Has adequate knowledge of landlord and letting agent registration, and the Letting Agent Code of Practice
- Knows about the provisions for those who are actually homeless or threatened with homelessness

For Type II

As for Type I plus:

- Understands and can explain different types of tenancy agreement and arrangements and their implications for security of tenure and the options available for action on harassment and illegal eviction
- Understands and can explain the definitions of harassment.
- Is able to recognise potential criminal actions motivated by disability, religion, race, transgender identity or sexual orientation. Is able to explain the remedies available to those affected
- Understands the role of the Local Authority Enforcement Officer, Landlord Registration Department, Police and Procurator Fiscal in relation to illegal eviction and harassment
- Identifies where harassment and illegal eviction issues underlie other housing problems (e.g. rent arrears, housing benefit, homelessness)
- Negotiates alternative emergency accommodation for client via local authority or elsewhere, and has sufficient knowledge of relevant homelessness legislation and provision to do this (see also Housing Specific Competence 2.10, Homelessness)
- Negotiates further action with tenant, ensuring that client is aware of the likely housing and financial implications and refers on for specialist legal representation
- Understands the importance of gathering and protecting evidence
- Understands and can advise tenants on private sector landlord registration. Understands and can explain to tenants the requirements of the Letting Agency Code of Practice. Is able to assist tenants who wish to report bad practice by landlords or letting agents, to the local authority.

- Where appropriate informs landlord of legislation and negotiates with Landlord where possible to prevent harassment or illegal eviction and homelessness
- Negotiates with landlord, local authority, Police and solicitors as necessary to ensure that tenant's aspirations are put to them clearly and in the context of legal entitlements

For Type III

As for Types I and II plus:

- Understands the potential role of other occupants/household members in taking action on harassment/illegal eviction. Contacts them, advises and negotiates plans of action
- Has sufficient knowledge of court and First Tier Tribunal procedures and practices maintained by training (initial training and annual updates)
- Understands the roles and obligations of landlords and tenancy relations officers. Negotiates alternatives to enforcement action with relevant parties
- Can assist clients under relevant legislation

Note: It is unlikely that mediation will be an appropriate action in cases of racial harassment.

This is a complex area and advocacy will, in most cases, be best done by solicitors (or, where the option is permitted, by a suitably qualified and experienced lay representative).

Agency competence

Enables advisers to advise and advocate effectively about harassment. This includes evidence of the following:

For Types I, II and III

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

For Type I

- Provides reference sources on tenancy types (such as CAS information system, Shelter Information System, Scottish Government booklets), where possible in a format that can be given to clients
- Has reference source on harassment and illegal eviction (such as CAS information system, Shelter Information System, Scottish Government booklets), where possible in a format that can be given to clients
- Has information about how to access to Tenancy Relations Officers/Sections (or officers exercising a relevant function in relation to, among other things, landlord registration and enforcement) and leaflets to give to clients
- Has an up to date reference guide to action on harassment and illegal eviction (such as CAS information system, Shelter Information System, Scottish Government booklets), where possible in a format that can be given to clients
- Holds an up to date list and referral procedures for local solicitors and other legal advice agencies able to take action
- Has information about emergency/direct access hostels and local homelessness provision
- Has an up to date reference guide to all forms of harassment and options and a list of local agencies able to take action, preferably in a format that can be given to clients

For Type II

As for Type I plus:

- Has an information service that covers harassment, illegal eviction and tenure issues, plus a mechanism to ensure advisers are updated on changes
- Has adequate resources to support basic training on these areas and regular updating (at least every two years) or access to an information service which provides updates, plus additional training when major legislative change occurs
- Has access to an up to date reference source on security of tenure and harassment and illegal eviction in Scotland
- Has access to reference sources that cover all forms of harassment and related issues and information about local agencies working in this area
- Provides sufficient resources to support home visits, (mobile phone, staff cover available, system to ensure staff safety), and has an adequate budget for transport where relevant
- Provides resources to support emergency action if necessary (e.g. staff cover) and has information about emergency provision in the area and referral agreements to direct access provision
- Has information about Legal Aid, sources of free legal help, and solicitors (or, where the option is permitted, by suitably qualified and experienced lay representatives) experienced in this area prepared to take cases on Legal Aid and at short notice if necessary
- Provides the necessary infrastructure (word processing, telephone, message taking, etc)
- Has an information service which covers harassment and tenure issues, a system for ensuring advisers are kept informed, resources to support adviser training on these areas, i.e. initial training for each adviser, an annual update and additional update for major legislative change

For Type III

As for Types I and II plus:

- Provides resources to find other people affected by harassment in the same building/area (via casework records, visits, letters)
- Provides sufficient resources to identify community and other organisations that may offer support to victims of racial harassment and deal with its causes
- Provides sufficient staff time for Court and Tribunal appearances and or support throughout the process
- Has information available on roles obligations and responsibilities of landlords and tenancy relations officers, preferably in a form that can be copied/ passed to clients and landlords

2.10 Homelessness

Adviser competence

Advises competently about homelessness. This includes evidence of the following:

For Type I

- Is able to identify when early intervention can prevent homelessness and can refer to an appropriate type II or III agency quickly
- Has a basic understanding of the meaning and significance of the legislative definitions of homelessness, intentionality and local connection and the ability to explain these to client
- Understands local authority duty to someone who is homeless
- Understands the importance of independent advice and the early availability of specialist help in cases involving negative homeless decisions and has knowledge of timescales for review and refers to a type II or III adviser promptly
- Understands the legal duties of local authorities and registered social landlords, the sources of those duties (e.g. legislation, regulations, Code of Guidance) and when those duties are triggered

- Understands the options for those threatened with homelessness
- Has sufficient knowledge of voluntary sector provision for homeless people who have been found to be intentionally homeless, including local registered social landlord allocation policies and services for the street homeless and make appropriate referral after checking there are no immigration or habitual residence issues
- Knows what emergency provision is available in the area including social services and how to sign post or refer the client to these services
- Has a basic understanding of the eligibility criteria that supports the homelessness application process. Knows which documentation an applicant may need to prove eligibility.
- Knows sources of specialist advice and referral for those deemed not eligible, or whose eligibility may be subject to query

For Type II

As for Type I plus:

- Understands and explains relevant homelessness and, housing support legislation, practice and provision and can advocate accordingly
- Identifies relevant preventative action where appropriate if client is threatened with homelessness and can either initiate such action or refer to an appropriate agency to do so
- Refers clients to local authority homelessness services as appropriate
- Negotiates with local authority to secure appropriate emergency, interim and long-term accommodation for the client and is aware of Regulations for exceptions and transitional accommodation
- Understands possible challenges to local authority decisions on homelessness cases, is aware of timescales and explains these and refers appropriately if client wishes to challenge

- Understands and explains allocations policies to clients to assist them in obtaining accommodation. Able to explain process, aspirations, availability, timescales and differences between homelessness and waiting list applications
- Knows how to refer or nominate clients to alternative schemes or provision not forming part of the homelessness legislation (e.g. rent guarantee schemes)
- Negotiate with landlords, benefits officers and others as relevant to secure accommodation and rent payments
- Understands relevant community care and child protection legislation, explains this to clients and negotiates provision with relevant departments
- Has had training on basic and advanced homelessness law and access to updating information service or training
- Has had training on means tested benefits/housing benefit, social services provision and allocations and updating
- Has a good understanding of rights under homeless provision due to immigration status, rules applying to EEA nationals.
- Has a good understanding of habitual residence test and the impact this has on eligibility

For Type III

As for Types I and II plus:

- Understands the likely effects of homelessness on all aspects of clients' lives, and is able to offer referral to agencies who may provide appropriate support
- Is aware of local agencies able to support clients, advise and negotiate plans of action
- Knows local authority review and complaints process for homeless applicants
- Prepares and presents reviews.

- Knows Court procedures and practices and this is maintained by training and updating
- Knows options for judicial review and refers appropriately when necessary
- Is aware of legislation to prevent street homelessness such as interim orders and can where appropriate refer to a solicitor
- Understands the roles and obligations of local authorities to homeless people
- Mediates, where appropriate, between the clients and landlords across all sectors
- Negotiates alternatives to enforcement action with relevant people

Agency competence

Enables advisers to advise and advocate effectively about eviction. This includes evidence of the following:

For Types I, II and III

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

For Type I

- Has a reference source on making an application as homeless (e.g. local authority leaflet, Shelter website or CAS information system, Scottish Government Code of Guidance)
- Has copies of local authority practice manuals on homelessness and contact details of relevant offices
- Has reference sources on relevant areas, preferably in formats that can be copied or given to clients

- Has information about access to emergency provision including out of hours services
- Has information about eligibility criteria (e.g. from Scottish Government Code of Guidance), and about access to services for those not eligible (e.g. Scottish Refugee Council)
- Has information about allocations policies, rent deposits, benefits, other provision, preferably in formats that can be copied or given to clients
- Provides sufficient resources to support initial training and a system for updating

For Type II

As for Type I plus:

- Has access to up to date information resources on homelessness law, the Code of Guidance and an updating service on case law and the Children (Scotland) Act 1995
- Has information about agencies in area dealing with money advice, harassment, domestic violence, etc.
- Has information about local allocations policies
- Has developed referral or nomination rights to relevant schemes
- Has access to up to date benefits resources
- Has access to up to date and reliable reference materials on the law on community care and information about local social services policies and provision
- Has information about provision for homeless people in the area, including out of hours and emergency provision, and sufficient resources to deal with emergencies as necessary (e.g. staff cover and transport)
- Provides adequate resources to support this (e.g. telephones, word processing, message taking)

- Has information about agencies that can provide advocacy services for homeless applicants, solicitors (or, where the option is permitted, suitably qualified and experienced lay representatives) with experience in this area and Legal Aid eligibility and can refer to them quickly

For Type III

As for Types I and II plus:

- Provides resources to provide more intensive support to homeless clients
- Has information about agencies dealing with health, debt, employment, education, etc. in area
- Has information on local authority review/appeals process
- Provides sufficient staff time to draw up and present reviews/appeals (including after hours for council committees)
- Provides sufficient staff time for appeals hearings or court appearances or both
- Has information about agencies or solicitors (or, where the option is permitted, suitably qualified and experienced lay representatives) who can take cases such as judicial review interim orders
- Has information available on roles and obligations of local authorities
- Has information on roles and obligations of landlords in formats that can be copied or passed to them

2.11 Relationship breakdown

Adviser competence

Advises competently about relationship breakdown and housing matters. This includes evidence of the following:

For Type I

- Has a basic understanding of security of tenure for rights of spouses, registered civil partners, cohabiting partners in both same-sex and heterosexual relationships and explains this to clients
- Has a basic understanding of the law affecting relationships: for example marriage, civil partnerships, cohabiting partners, separation, domestic abuse, divorce, dissolution of civil partnership, children's rights, and explains these to clients
- Understands homelessness options (see also Housing Specific Competence 2.10, Homelessness)
- Understands local authority and social landlord policies on relationship breakdown and explain these to clients
- Understands the importance of specialist legal advice in cases involving relationship breakdown (e.g. in relation to rights under the Matrimonial Homes (Family Protection) (Scotland) Act 1981, Marriage and Civil Partnership (Scotland) Act 2014, Family Law (Scotland) Act 2006)
- Has an awareness of the emergency remedies that are available under the Matrimonial Homes and Civil Partnership and related legislation and other statutory provisions concerning protection from harassment (e.g. interim interdict, exclusion order etc).
- Can refer clients to solicitors (or, where the option is permitted, suitably qualified and experienced lay representatives) skilled and experienced in this area of law
- Has knowledge of local support services such as Women's Aid and can refer when appropriate
- Where domestic abuse is linked to addiction, can provide information and contact details for local support services
- Has had initial training on relationships and legal rights, security of tenure, homelessness and annual updating

For Type II

As for Type I plus:

- Understands the range of medium to long-term options available to people leaving relationships, e.g. transfer of tenancy and explains this to clients
- Is aware of local landlord policies on relationship breakdown and if appropriate rent arrears
- Has sufficient knowledge of emergency procedures and options available to those in danger of domestic abuse or homelessness as a result of relationship breakdown. This includes homelessness legislation and emergency remedies under the Matrimonial Homes (Family Protection) (Scotland) Act 1981 and Civil Partnership Act 2004 and related legislation plus other statutory provisions concerning protection from harassment (for example, interdict, exclusion order).
- Can explain these to clients and offer referral to specialist legal advice
- Negotiates with landlords to secure accommodation where appropriate
- Has had initial training in family law, security of tenure, relationship breakdown and housing rights, homelessness and has an annual updating

Note: Advocacy in this area would normally be undertaken by a solicitor (or, where the option is permitted, by a suitably qualified and experienced lay representative) who is skilled and experienced in this area.

Mediation in this area would normally take place within the mediation process that is now part of divorce/dissolution or separation proceedings or via relationship counselling.

Agency competence

Enables advisers to advise and advocate effectively about housing and relationship breakdown. This includes evidence of the following:

For Types I, II and III

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

For Type I

- Has information on security of tenure and relationship breakdown, preferably in a format that can be copied or given to clients
- Has information on marriage, civil partnerships, cohabiting partners, separation, domestic abuse, divorce/dissolution, children's rights, preferably in a format that can be copied or given to clients
- Has information on homelessness procedures, policies and provision in the area, preferably in a format that can be copied or given to clients
- Has information on local authority and registered social landlord policies on relationship breakdown, preferably in a format that can be copied or given to clients
- Provides sufficient resources to support initial and update training

For Type II

As for Type I plus:

- Has access to up to date reference sources on family law and security of tenure
- Has access to up to date reference sources on emergency procedures, especially injunctions and information about local policies and procedures on homelessness
- Has information about lawyers in the area with experience in this type of work
- Has information about local registered social landlord policies on relationship breakdown

For Type III

Note: Advocacy in this area would normally be undertaken by a solicitor (or, where the option is permitted, by a suitably qualified and experienced lay representative) who is skilled and experienced in this area.

Mediation in this area would normally take place within the mediation process that is now part of divorce or separation proceedings or via relationship counselling.

2.12 Rent: private sector

Adviser competence

Advises competently about legal issues affecting rent in the private sector. This includes evidence of the following:

For Type I

- Has a basic understanding of security of tenure in private rented sector, and an appreciation that particular tenancy-related issues may impact upon the practical options available to tenants and explain these to client
- Has a basic understanding of role, responsibilities and procedures of Rent Officer and First-Tier Tribunal
- Has an understanding of landlord registration scheme
- Is aware of the main provisions and vulnerability criteria to have benefits relating to housing costs paid direct to landlord
- Is aware of the process and paperwork required to increase rent depending on type of tenancy. Is aware of timescales which need to be met if challenging rent increase
- Has had initial training on security of tenure in private rented sector and annual updating

- Is aware of how to apply for help with housing costs including discretionary housing payments

For Type II

As for Type I plus:

- Advises and support clients in dealings with Rent Officer and First-Tier Tribunal proceedings
- Has a good understanding of the landlord registration scheme
- Understands and can explain how to apply for help with housing costs including housing benefit/housing element of universal credit and discretionary housing payments

For Type III

As for Types I and II plus:

- Represents clients at the First-Tier Tribunal
- Mediates with landlord as necessary to negotiate rent levels acceptable to clients

Agency competence

Enables advisers to advise and advocate effectively about rent for private sector tenants. This includes evidence of the following:

For Types I, II and III

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy

- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

For Type I

- Has information about security of tenure in the private rented sector (e.g. Scottish Government leaflets, CAS information system) where possible in format that can be copied or given to clients
- Has information about role of the Rent Officer and the First Tier Tribunal (e.g. Scottish Government leaflets, CAS information system) where possible in format that can be copied or given to clients
- Has access to information about comparable and market rents (or provides sufficient time to visit Rent Officer and/or local library to examine)
- Has access to regulations, guidance and information relating to Local Housing Allowance
- Provides sufficient resources to support training

For Type II

As for Type I plus:

- Has access to up to date and reliable reference sources on private sector security of tenure that cover rent setting mechanisms and updating information

For Type III

As for Types I and II plus:

- Has access to procedure manuals for First Tier Tribunal regulations
- Has sufficient resources to support and provide information about landlords' legal responsibilities, preferably in a format that can be copied or given to landlords

2.13 Security of Tenure

Adviser competence

Advises competently about security of tenure. This includes evidence of the following:

For Type I

- Identifies main types of tenure across all sectors and explains these to clients
- Identifies role of notices, court and tribunal procedures and explain potential implications for clients
- Is aware of options for those threatened with homelessness and the need to refer to the appropriate service to prevent homelessness

For Type II

As for Type I plus:

- Can identify rights where client is not the tenant and negotiate with landlord, e.g. succession
- Understands and explains different types of tenancy agreement and arrangements and the implications for security of tenure and the options available for action
- Understands correct use of notices and can explain them to clients
- Understands possession proceedings and explains to clients
- Negotiates further action with tenant (including offers of alternative accommodation), ensuring client is aware of the likely housing and financial implications
- Negotiates with landlord, council officers and lawyers as necessary to ensure that tenant's aspirations are put to them clearly and in the context of legal entitlements
- Has had initial training on security of tenure across all sectors and annual updating

For Type III

As for Types I and II plus:

- Understands of the potential role of other occupants/household members in taking action
- Understands role of Landlord Registration and significance of landlord's failure to register and liaises with the local authority office
- Contacts local authority, advises and negotiates plans of action
- Knows court procedures and practices maintained by training: initial training and an annual updating
- Understands roles and obligations of landlords and local authorities
- Negotiates alternatives in line with clients' aspirations and relevant parties

Note: This is a complex area and advocacy will, in most cases, be best done by a solicitor (or, where the option is permitted, by a suitably qualified and experienced lay representative).

Agency competence

Enables advisers to advise and advocate effectively about security of tenure. This includes evidence of the following:

For Types I, II and III

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

For Type I

- Has information about security of tenure, where possible in a format that can be copied or given to clients
- Scottish Government leaflets
- CAS information system

- Has information about court and tribunal procedures, preferably in a format that can be copied or given to clients
- Has information about homelessness, preferably in a format that can be copied or given to clients

For Type II

As for Type I plus:

- Has access to a reference source and updating service on security of tenure
- Has access to an up to date and reliable reference source on court procedures and any written information about how the court services work that can be given to clients
- Has information about Legal Aid, sources of free legal help and solicitors (or, where the option is permitted, suitably qualified and experienced lay representatives) skilled and experienced in this area
- Provides the necessary infrastructure (e.g.IT, telephone, message taking, etc)

Has an information service that covers tenure and a system for ensuring adviser keeps informed, resources to support required adviser training on these areas

For Type III

As for Types I and II plus:

- Provides resources to find others in the same building/area (via casework records, visits, letters)
- Provides sufficient staff time for Court and Tribunal appearances
- Provides sufficient resources to support required adviser training on these areas
- Has information available on roles and obligations of landlords and local authorities, preferably in a form that can be copied/passed to clients and landlords

2.14 Statutory Tenancy Rights

Adviser competence

Advises competently about tenants' rights contained within relevant statutes. This includes evidence of the following:

For Type I

- Understands and is aware of the existence of the different types of statutory tenure in Scotland
- Understands and is aware that relevant statutes can give specific rights to certain tenants
- Understands and is aware that these rights cannot be excluded by contract
- Understands and is aware of the extent of these rights and in particular rights relating to rent setting, assignation of tenancy, succession to tenancy and rights to carry out improvements and alterations, standard of repair in the property
- Understands and is aware that tenancy contracts can give additional rights to those provided by statute
- Understands and is aware that some residential occupiers have no or limited rights in terms of these statutes (e.g. adults who reside in another person's home and who are not in a relationship with that person) and is able to offer a referral to a specialist adviser in such cases
- Has had initial training and annual updating, plus additional training about any major legislative change

For Type II

As for Type I plus:

- Has an understanding of the specific rights granted to tenants in terms of statute

- Has an understanding of the tenancy rights granted in statute to each tenancy type
- Understands and is aware of the potential impact of the tenancy agreement in creating tenancy rights
- Has an understanding of the different types of tenancy and their implications with regard to rights to succession, assignation, rent setting, rights to carry out alterations and improvement and the right to have the tenancy maintained in an adequate state of repair
- Understands and is able to explain the different types and the different rights available
- Is able to negotiate with landlords relating to these matters
- Is aware of legal provisions to challenge decisions which are adverse to tenants.
- Understands the importance of gathering and protecting evidence with regard to these rights
- Understands and is aware of the different statutory schemes involved in rent setting in the private rented sector depending on tenancy type.

- Able to negotiate with landlord, local authority and lawyers as necessary to ensure that the tenant's rights are expressed clearly and in the context of the tenant's relevant legal entitlements
- Has had initial training on the various types of tenure and various types of statutory tenants' rights and rights available to other residential occupiers. Has annual updating on them plus access to appropriate additional training in respect of any major legislative change

For Type III

As for Types I and II plus:

- Understands and is aware of the existence of Court and tribunal-based remedies including summary applications to the Sheriff Court and applications to the First-Tier Tribunal
- Able to advise and negotiate plan of action
- Has sufficient knowledge of relevant Court and tribunal procedures and practises and maintains them by initial training and annual updating
- Understands the roles and obligations of landlords in connection with their statutory rights and duties
- Understands and is able to negotiate with landlords to ensure tenants' rights are maintained

Agency Competence

Enables advisers to advise and advocate effectively on statutory tenants' rights. This includes evidence of the following:

For Types I, II and III

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

For Type I

- Provides reference sources on tenancy types (such as CAS information systems, Shelter information system, Scottish Government booklet) where possible in a format that can be copied or given to clients
- Has reference source on statutory tenants' rights where possible in a format that can be copied or given to clients
- Has an up to date reference guide to statutory tenants' rights where possible in a system that can be given to clients

- Holds an up to date list of local solicitors and other legal advice agencies able to assist in taking action to enforce tenants' rights

For Type II

As for Type I plus:

- Has access to an up to date reference source on relevant tenures in Scotland
- Able to provide sufficient resources to support, if necessary, home visits to tenants and an adequate budget for transport as required
- Provides resources to support emergency action if necessary and has information about emergency provision in the area and referral agreements to appropriate agency
- Has information about Legal Aid, sources that are free with your help, and solicitors experienced in this area prepared to take on Legal Aid cases at short notice if necessary
- Provides the necessary infrastructure for supporting tenant
- Has an information system which ensures advisers are kept informed
- Provides resources to support adviser training and additional updates in respect of any major legislative change

For Type III

As for Types I and II plus:

- Provides sufficient staff time to enable Court and Tribunal appearances
- Provides sufficient resources to enable staff training
- Has sufficient information available on the rules and obligations of landlords in respect of these matters, preferably in a form that can be copied or given to clients

2.15 Repair and Improvement Grants

Adviser competence

Advises and advocates competently about the scheme of assistance available to owners and tenants for housing improvements and dealing with disrepair. This includes evidence of the following:

For Type I

- Has an understanding that the 'scheme of assistance' within the Housing (Scotland) Act 2006 replaced the 'system of improvement and repair grants' contained in the 1987 and 2001 Acts.
- Has knowledge of the 'scheme of assistance' and how it addresses repair and/or improvement of houses. Can refer to type II or III agency for assistance or direct to those who administer the schemes
- Knowledge of any special local schemes and specialist agencies
- Ability to identify cases involving heating and insulation issues and to make appropriate referrals
- Has had training on the scheme of assistance plus updating as necessary
- Aware of current energy efficiency schemes and where possible information on these in a format that can be copied or given to clients, and knowledge of referral arrangements to agencies covering such initiatives
- Aware of Maintenance Orders and grants which can be awarded, Housing (Scotland) Act 2006

For Type II

As for Type I plus:

- Has an understanding of security of tenure and disrepair legislation in relation to responsibility for repairs
- Is able to assist users with forms for means test, calculate eligibility and make applications for grants

- Is able to advise clients on alternative means to secure repairs or improvements
- Has had training on the scheme of assistance plus updating as necessary

For Type III

As for Types I and II plus:

- Is able to advise users throughout repairs process
- Ability to make further representations on behalf of clients against refusals of improvement and repair grants
- Ability to mediate in support of clients' interests

Agency competence

Enables advisers to advise and advocate competently about grants available to owners and tenants for housing improvements and dealing with disrepair. This includes evidence of the following:

For Types I, II and III

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given
- Holds relevant forms, calculation sheets, calculators, procedure manuals for local authority grants departments
- Has textbooks or electronic equivalent on community care and benefits handbooks

For Type I

- Has information about the scheme of assistance preferably in a format that can be copied or given to clients
- Has information about local renewal areas special schemes and specialist agencies Care and Repair leaflets where possible in a format that can be copied or given to clients
- Has information about local agencies and support services that can assist and can refer to other initiatives dealing with heating and insulation issues. Where possible provide information in a format that can be copied or given to clients

For Type II

As for Type I plus:

- Has access to a standard text on security of tenure and disrepair in Scotland
- Holds relevant forms, calculation sheets, calculators, procedure manuals for local authority grants departments
- Has textbooks or electronic equivalent on community care and benefits handbooks
- Provides resources to support representations on behalf of clients against refusals of improvement and repair grants, including up to date and adequate reference material covering the law on improvement grants, copies of local authority appeals and complaints procedures

Provides resources to support mediation

3.1 Administrative Structure of the Benefits and Tax Credits Systems

Adviser competence

Knows the administrative structures of the benefits and tax credits systems. This includes evidence of the following:

For Type I

- Knows the relevant decision making responsibilities of DWP, HMRC, Social Security Scotland (SSS) and LAs
- Knows which agencies and offices administer each benefit and how to contact them
- Knows that Universal Credit replaces means-tested benefits for people of working age and when this will be applicable to clients

For Types II and III

As for Type I plus:

- Knows how to contact customer services/complaints managers, Scottish Public Services Ombudsman services
- Knows the structure of the decisions, disputes and appeals process and which services/offices administer these

Agency competence

Enables advisers to know the structure of the benefits and tax credits systems. This includes evidence of the following:

For Types I, II and III

- Holds local and national contact names, addresses, opening hours, etc
- Provides or facilitates supervision training and updating on this topic which is appropriate to the Type of advice being given

3.2 National Insurance Scheme

Adviser competence

Knows the rules about National Insurance payments and the effect on benefits

For Type I

- Knows which benefits are based on National Insurance payments

For Types II and III

As for Type I plus:

- Has the skills and knowledge to access information on this topic in order to be able to respond to clients
- Knows the different classes of National Insurance contributions
- Knows the effect on benefit entitlement of class of contribution
- Identifies benefit years
- Knows upper and lower earnings limits
- Knows the first and second contributions conditions for benefits
- Knows which groups qualify for National Insurance Credits
- Advises about voluntary contributions

Agency competence

Enables advisers to advise and advocate effectively about National Insurance. This includes evidence of the following:

For Types I, II and III

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the type of advice being given

3.3 Claims and Backdating

Adviser competence

Knows how to make effective claims and backdating requests, and resolve issues which arise during the claims process. This includes evidence of the following

For Type I

- Knows how to access available channels to make a claim for each benefit – paper form, online and telephone
- Identifies the support a client may need to make and maintain a successful online claim for Universal Credit and signposts or refers for support
- Knows the National Insurance number requirement and resolves delays where clients have insufficient evidence to obtain a National Insurance number
- Knows the common forms of evidence and information required for claims, in particular: capital, income, earnings, family, household and banking details
- Knows time limits for claiming all benefits and tax credits
- Knows couple claim rules for Universal Credit and legacy benefits
- Knows which benefits and tax credits can be backdated, how to do this and the criteria
- Knows time limits for processing claims, short-term advances and related matters

For Type II

As for Type I plus:

- With access to advice, support and supervision, completes claim forms
- Registers claims
- Ascertains why a claim has been delayed or rejected on evidence/information grounds and, with advice, effectively challenges this

- With advice, support and supervision knows the qualifying benefit rules for backdating benefit claims
- Has the skills and knowledge to access information on this topic in order to be able to respond to clients
- Researches legislation and case law on claims, evidence and information and backdating
- Prepares correspondence about backdating, evidence and information, including challenges when the matter is refused, borderline or contentious
- Knows how to challenge undue delay in processing claims
- Knows what legal remedies are available for resolving problems with claims, evidence and information and backdating
- Intervenes effectively with creditors when debtors experience delays with benefit claims

For Type III

As for Types I and II plus:

- Knows relevant aspects of law governing data protection, human rights and discrimination
- Is familiar with legislation and case law on claims, evidence and information and backdating
- Prepares submissions to Tribunals that contain both a statement/summary of key evidence and legal submissions citing legislation and case law, where appropriate, which supports clients' cases
- Undertakes representation before Tribunals (see Generic Competence 1.8, Representation and Litigation)
- Writes effective letters to MSPs, MPs, councillors, Scottish Public Services Ombudsman, etc
- Makes informed and appropriate referrals to lawyers on possible judicial review matters
- Knows the key links with other areas of law

Agency competence

Enables advisers to deal with claims, information and evidence and backdating. This includes evidence of the following:

For Types I, II and III

- Provides or facilitates supervision training and updating on this topic which is appropriate to the Type of advice being given
- Has supervision and quality assurance arrangements which cover these topics
- Has accessible information on local and national contacts for customer services/complaints manager, Ombudsman services

3.4 Decision-making, Disputes and Appeals

Adviser competence

Advises and supports clients to make their case effectively in challenging decisions in the review and appeals process. This includes evidence of the following:

For Type I

- Knows the legal significance of decision-making on benefit/tax credit matters
- Knows the process of mandatory reconsideration/redetermination before appeal and when this applies
- Knows how the client can dispute a benefit decision/determination or seek a supersession
- Knows the time limits (and common exceptions) for explanations, requesting revisions, supersessions, redeterminations and appeals to Tribunals

For Type II

As for Type I plus:

- With advice, support and supervision in complex cases, disputes or appeals a decision or determination and requests a supersession
- Has the skills and knowledge to access information on this topic in order to be able to respond to clients
- Knows the difference between supersession, mandatory reconsideration, redetermination and appeal
- Identifies benefit entitlement options pending reconsideration, redetermination and appeal
- Requests a mandatory reconsideration/redetermination in order to dispute the decision and generate a right of appeal if the outcome is not favourable
- Prepares and submits appeal applications, including late applications
- Undertakes representation and supports the client's case in writing, by telephone, or in a meeting outside any litigation environment (see Generic Competence 1.8, Representation and Litigation)

For Type III

As for Types I and II plus:

- Prepares submissions to Tribunals which contain both a statement/summary of key evidence and legal submissions citing legislation and case law, where appropriate, which supports clients' cases
- Undertakes representation before Tribunals (see generic Competence 1.8, Representation and Litigation)
- Identifies errors of law in decisions of the First-tier Tribunal in order to find grounds for appeal to the Upper Tribunal or makes a referral if not within the remit of the organisation
- Prepares requests for Leave to Appeal and Notices of Appeal to the Upper Tribunal (if within the remit of the organisation)

- Identifies outline points of law in decisions of the Upper Tribunal which might be grounds for appeal to the Court of Session. Refers such cases to a lawyer skilled in social security law (if within the remit of the organisation)
- Deploys arguments based on Human Rights, European and discrimination law as they apply to social security/tax credits (if within the remit of the organisation)
- Knows the key links with other areas of law

Agency competence

Enables advisers to provide a high quality service by making effective use of decision making, review and appeals processes. This includes evidence of the following:

For Types I, II and III

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective welfare rights advice and advocacy
- Provides or facilitates supervision training and updating on this topic which is appropriate to the Type of advice being given
- Has standard letters
- Advisers have access to in-house or external consultancy

3.5 Benefit and Tax Credit Overpayments

Adviser competence

Advises and advocates effectively about benefit overpayments. This includes evidence of the following:

For Type I

- Knows when overpayments can be challenged

For Type II

As for Type I plus:

- With advice, support and supervision in complex cases, disputes or appeals a decision or requests a supersession
- Has the skills and knowledge to access information on this topic in order to be able to respond to clients
- Understands key legal concepts, researches relevant legislation and case law on the above, applies an interpretation which assists clients and advises on options
- Prepares letters to DWP/HMRC/SSS/LAs which put the above points succinctly and persuasive
- Seeks exercise of discretion to waive recovery using DWP/HMRC/SSS/LAs guidance and administrative law principles
- Understands possible defences to extra-statutory recovery, and refers to a Type III adviser
- Prepares letters of complaint to MSPs, MPs and Scottish Public Services Ombudsman

For Type III

As for Types I and II plus:

- Prepares submissions to Tribunals which contain both a statement/summary of key evidence and legal submissions citing legislation and case law, where appropriate, which supports the client's case
- Undertakes representation before Tribunals (see Generic Competence 1.8, Representation and Litigation)
- Has a working knowledge of the legislation and case law about overpayments
- Knows the key links with other areas of law
- Identifies when Judicial Review may be an option in cases where discretion to waive has not been exercised and makes an informed

referral to a lawyer who is skilled and knowledgeable in this area of law

Agency competence

Enables advisers to advise competently about overpayments. This includes evidence of the following:

For Types I, II and III

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision training and updating on this topic which is appropriate to the Type of advice being given

3.6 Assessment, Initial Decision-Making and Holding Activity in Debt Cases

Adviser competence

Carries out an assessment which includes an initial decision about any holding action which should be taken. This includes evidence of the following:

For Type I

- Identifies debt problems
- Provides information to the client on the detail of creditor information needed for referral for money advice
- Assesses whether any emergency action is required to protect debtors (for a Type I adviser, by consulting a Type II or III adviser) and refer to a Type II or III adviser
- Confirms advice with clients and makes appointments for further work, explaining the service's aims, boundaries, principles and policies and that the service is appropriate

For Types II and III

As for Type I plus:

- With advice, support and supervision, issues agency standard holding letters, letters seeking details of debts, replies to court documents or refers all debt issues to a specialist debt adviser or for emergency legal help in more serious situation (e.g. a forthcoming eviction/ejection)
- Identifies priority debts
- Identifies clients' wishes and assesses how realistic and/or safe these are. Provides feedback
- Accurately identifies cases which may be suitable for referral to an approved adviser for bankruptcy, the Debt Arrangement Scheme or insolvency practitioner
- Knows when to consult a lawyer to protect debtor's position

Agency competence

Enables advisers to assess and take initial holding action competently. This includes evidence of the following:

For Types I, II and III

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to debt advice
- Provides or facilitates supervision training and updating on this topic which is appropriate to the Type of advice being given
- Has standard letters for holding action and seeking further information, appropriate court forms, common creditor contact details, etc
- Ensures that all advisers have access to internal or external second tier advice in emergency situations

Money and Welfare Benefit Related Advice Competences – Specialist Areas

The following competences cover the particular areas of law governing welfare rights, income maximisation and debts in Scotland.

4.1 Means–Tested Benefits

Adviser Competence

Advises and advocates effectively about legacy means–tested benefits (Income Support, Income–based Jobseeker's Allowance and Income–related Employment and Support Allowance) and about Pension Credit. (For Universal Credit, see Competence 4.2(a) and for Universal Credit housing element, Housing Benefit and Council Tax Reduction, see Competence 4.2(b).) This includes evidence of the following:

For Type I

- Provides information based on the following knowledge, recognises key principles and knows when and where to seek further help
- Knows broadly when a client can make a claim for legacy benefits rather than Universal Credit
- Knows common eligibility criteria for these benefits
- Knows main principles about assessment of capital, income, earnings, notional capital and income and disregards
- Knows concepts such as membership of household, couples, civil partnership, temporary absence, maximum/applicable/appropriate amount and the effect of changes of circumstances
- Knows which debts can be repaid by deductions and refers for support if deductions are causing hardship

For Type II

As For Type I plus:

- Knows the interaction with other benefits and can explain this to the client to assess the options available to the client

- Knows how the transition to Universal Credit affects claims and awards of legacy benefits
- Has a detailed understanding of eligibility rules, including residence rules and exclusion due to immigration status. Can refer for immigration advice if appropriate
- Knows how to calculate Income Support, Income-based Jobseeker's Allowance, Income-related Employment and Support Allowance, and Pension Credit using paper or digital tools
- Has the skills and knowledge to access information on this topic in order to be able to respond to clients
- Understands key legal concepts, researches relevant legislation and case law on the above, applies an interpretation which assists clients and advises on options
- Negotiates with the DWP on behalf of the client and requests further information or an explanation
- With advice, support and supervision in complex cases, disputes or appeals a decision or requests a supersession
- Is familiar with relevant legislation and case law

For Type III

As for Types I and II plus:

- Prepares submissions to Tribunals which contain both a statement/summary of key evidence and legal submissions citing legislation and case law, where appropriate, which supports the clients case
- Undertakes representation before Tribunals (see Generic Competence 1.8, Representation and Litigation)
- Has a working knowledge of the legislation and case law
- Knows the key links with other areas of law

Agency Competence

- Enables advisers to advise and advocate effectively about means-tested benefits. This includes evidence of the following:
- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

4.2 (a) Universal credit

Adviser competence

Provides competent advice and advocacy about Universal Credit. This includes evidence of the following:

For Type I

- Understands the broad eligibility criteria for Universal Credit
- Understands the elements which make up Universal Credit
- Understands broadly the relationship of Universal Credit to legacy benefits and transitional procedures
- Knows the process for claiming and of the need to maintain the claim
- Recognises clients who need additional support and makes referrals
- Knows financial help available before first payment and makes referrals
- Understands payment options, including Scottish choices
- Knows which debts can be repaid by deductions and refers for support if deductions are causing hardship
- Has a basic understanding of the benefit cap and refers those affected to a Type II or III adviser

- Has a basic understanding of the claimant commitment and refers people who are sanctioned to a Type II or III adviser

For Type II

- Understands the rules and process of transition to Universal Credit from legacy benefits
- Has a detailed understanding of eligibility rules, including residence rules and exclusion due to immigration status. Can refer for immigration advice if appropriate
- Knows how to calculate Universal Credit using paper or digital tools
- Has the skills and knowledge to access information on this topic in order to be able to respond to clients
- Understands key legal concepts, researches relevant legislation and case law on the above, applies an interpretation which assists clients and advises on options
- With advice, support and supervision in complex cases, disputes or appeals a decision or requests a supersession
- Refers any complex disputes to a Type III adviser
- Refer to a Type III adviser for submission and representation to the First-tier Tribunal
- Is familiar with relevant legislation and case law

For Type III

- Prepares submissions to Tribunals which contain both a statement/summary of key evidence and legal submissions citing legislation and case law, where appropriate, which supports the clients case
- Undertakes representation before Tribunals (see Generic Competence 1.8)
- Has a working knowledge of the legislation and case law
- Understands the key links with other areas of law

- Identifies when Judicial Review may be an option and makes an informed referral to a lawyer who is skilled and knowledgeable in this area of law

4.2 (b) Housing Element of Universal Credit, Housing Benefit and Council Tax Reduction

Adviser Competence

Advises and advocates effectively about Universal Credit housing element, Housing Benefit and Council Tax Reduction. This includes evidence of the following:

For Type I

- Knows broadly how Universal Credit is replacing Housing Benefit for people under pension age, and when people can make a claim for Housing Benefit instead of or as well as Universal Credit
- Has a basic understanding of eligibility rules for these benefits
- Knows the process for claiming and can refer for additional support
- Has a basic understanding of backdating claims
- Knows the level of local housing allowance appropriate for a client in common cases
- Has a basic understanding of the under-occupancy rules (bedroom tax)
- Has a basic understanding of non-dependant deductions and housing costs contributions
- Has a basic understanding of the benefit cap and refers those affected to a Type II or III adviser
- Understands when payments can be made direct to a landlord
- Has a basic knowledge of overpayments and refers to a Type II or III adviser
- Has a basic knowledge of disputes and appeals processes including timescales

- Has a basic knowledge of Discretionary Housing Payments, including who is eligible, local policies, how to apply and the review process
- Knows that support for mortgage interest is available as a loan through a separate scheme

For Type II

As For Type I plus:

- Knows how the transition to Universal Credit affects claims and awards of Housing Benefit
- Has knowledge of other benefits and passporting implications and can explain these to give the client a full picture
- Has a detailed understanding of eligibility rules, including residence rules and exclusion due to immigration status. Can refer for immigration advice if appropriate
- Has a detailed understanding of the level of local housing allowance appropriate for a client
- Has a detailed understanding of claims, backdating and overpayment rules
- Knows how to calculate Universal Credit with a housing element, Housing Benefit and Council Tax Reduction using paper or digital tools
- Negotiates with relevant agencies for prompt and accurate payment of benefit
- Can assist client to have payments made direct to the landlord
- Has the skills and knowledge to access information on this topic
- Understands key legal concepts, researches relevant legislation and case law on the above, applies an interpretation which assists clients and advises on options
- With support and supervision in complex cases, disputes or appeals a decision and helps with complaints
- Is familiar with relevant legislation and case law

For Type III

As for Types I and II plus:

- Prepares submissions to Tribunals and Council Tax Reduction Review Panel which contain both a statement/summary of key evidence and legal submissions citing legislation and case law, where appropriate, which supports clients' cases
- Undertakes representation before Tribunals and Council Tax Reduction Review Panel (see Generic Competence 1.8, Representation and Litigation)
- Has a working knowledge of the legislation and case law
- Knows the key links with other areas of law

Agency Competence

Enables advisers to advise and advocate effectively about Universal Credit/Housing Benefit and Council Tax Reduction. This includes evidence of the following:

For Types I, II and III

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

4.3 Tax Credits

Adviser Competence

Advises and advocates effectively about Tax Credits. This includes evidence of the following:

For Type I

- Knows the basic eligibility criteria and basic income assessment rules for Child Tax Credit and Working Tax Credit
- Understands broadly how and when Tax Credits are being replaced by Universal Credit and Pension Credit
- Has basic knowledge about the effect of changes of circumstances, income and childcare costs
- Has basic knowledge of overpayments, how they arise and how to respond

For Type II

As For Type I plus:

- Knows how the transition to Universal Credit affects claims and awards of Tax Credits
- Knows how to calculate Tax Credits using paper or digital tools
- Negotiates about penalties and appeals
- Understands rules and practice on overpayments
- Has the skills and knowledge to access information on this topic in order to be able to respond to clients
- Understands key legal concepts, researches relevant legislation and case law on the above, applies an interpretation which assists clients and advises on options
- With advice, support and supervision in complex cases, disputes or appeals a decision
- Is familiar with relevant legislation and case law

For Type III

As for Types I and II plus:

- Has a good knowledge of appeals and complaints procedures
- Prepares submissions to Tribunals which contain both a statement/summary of key evidence and legal submissions citing

legislation and case law, where appropriate, which supports clients' cases

- Undertakes representation before Tribunals (see Generic Competence 1.8, Representation and Litigation)
- Has a working knowledge of the legislation and case law
- Knows the key links with other areas of law

Agency Competence

Enables advisers to advise and advocate about Tax Credits. This includes evidence of the following:

For Type I

- Has details of HMRC adviser help lines
- Has arrangements for liaising and negotiating with HMRC
- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

For Types II and III

As For Type I plus:

Provides access to accountants and lawyers who are skilled and knowledgeable about tax credits

4.4 Social Fund, Scottish Welfare Fund, Best Start Grant and Funeral Support Payment

Adviser Competence

Provides competent advice and advocacy about the Social Fund, Scottish Welfare Fund, Best Start Grant and Funeral Support Payment. (See also 4.19 for ancillary benefits.) This includes evidence of the following:

For Type I

- Knows the range of support available from the funds and grants
- Knows the broad eligibility criteria and what the client may be entitled to based on their circumstances
- Knows the time limits for claiming Best Start Grant and Funeral Support Payment and how to claim
- Makes referrals to the Scottish Welfare Fund

For Type II

As For Type I plus:

- Helps clients to apply
- Helps reschedule loans or waive recovery
- Has the skills and knowledge to access information on this topic in order to be able to respond to clients
- Understands key legal concepts, researches relevant legislation and case law on the above, applies an interpretation which assists clients and advises on options
- With advice, support and supervision in complex cases, disputes or appeals a decision
- Is familiar with relevant legislation and case law

For Type III

As for Types I and II plus:

- Has a good knowledge of appeals and complaints procedures
- Prepares submissions to the Ombudsman and Tribunals which contain both a statement/summary of key evidence and legal submissions

citing legislation and case law, where appropriate, which supports clients' cases

- Undertakes representation at Tribunals (see Generic Competence 1.8, Representation and Litigation)
- Has a working knowledge of the legislation and case law
- Knows the key links with other areas of law

Agency Competence

Enables advisers to advise and advocate competently about the Scottish Welfare Fund, Best Start Grant, Funeral Support Payment and the Social Fund. This includes evidence of the following:

For Types I, II and III

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

4.5 The Impact of Work on Benefits

Adviser Competence

Provides competent advice and advocacy about the impact of work on benefits and tax credits. This includes evidence of the following:

For Type I

- Knows that work and changes in work can affect benefits and tax credits
- Is aware of the rules about working while in receipt of benefits
- Knows in outline the work conditionality and claimant commitment rules for means-tested benefits
- Is aware of the permitted work rules for Employment and Support Allowance

For Type II

As For Type I plus:

- Does better-off calculations for clients wishing to start or change work or earnings using paper or digital tools and can advise accordingly
- Has the skills and knowledge to access information on this topic in order to be able to respond to clients
- Understands key legal concepts, researches relevant legislation and case law on the above, applies an interpretation which assists clients and advises on options
- With advice, support and supervision in complex cases, disputes or appeals a decision or requests a supersession
- Is familiar with relevant legislation and case law

Agency Competence

Enables advisers to advise accurately about better-off issues. This includes evidence of the following:

For Types I, II and III

- Provides or facilitates training and support to undertake better-off calculations
- Provides adequate access to either computer benefits calculation packages or paper calculation sheets
- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

4.6 Benefits for Children

Adviser Competence

Provides competent advice and advocacy about Child Benefit, Guardian's Allowance, the child element of Universal Credit and the child element of Pension Credit. (See 4.3 for Child Tax Credit.) This includes evidence of the following:

For Type I

- Identifies common situations when someone is entitled Child Benefit, Guardian's Allowance, the child element of Universal Credit or the child element of Pension Credit
- Identifies special cases (e.g. shared care, school leavers and children in public care) and refers to a **Type II** or **III** adviser
- Knows where to claim and how to access support with claiming where needed

For Type II

As For Type I plus:

- Has a good knowledge of the rules of entitlement, including two-child limit, shared care, changes in care, absence of parent, school leavers, children in public care and kinship car
- Has the skills and knowledge to access information on this topic in order to be able to respond to clients
- Identifies kinship care clients who are ineligible for the child element of Universal Credit and refers to a specialist second tier adviser
- Understands key legal concepts, researches relevant legislation and case law on the above, applies an interpretation which assists clients and advises on options
- Prepares letters to HMRC/Local Authorities which put across the above points succinctly and persuasively
- Is familiar with relevant legislation and case law

For Type III

As for Types I and II plus:

- Prepares submissions to Tribunals which contain both a statement/summary of key evidence and legal submissions citing legislation and case law, where appropriate, which supports clients' cases
- Undertakes representation before Tribunals (see Generic Competence 1.8, Representation and Litigation)
- Has a working knowledge of the legislation and case law
- Knows the key links with other areas of law

Agency Competence

Enables advisers to advise and advocate competently about the child element of Universal Credit/Pension Credit, Child Benefit and Guardian's Allowance. This includes evidence of the following:

For Types I, II and III

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

4.7 State Pension

Adviser Competence

Provide competent advice and advocacy about State Pension. This includes evidence of the following:

For Type I

- Knows how to obtain a State Pension forecast
- Knows broad eligibility criteria for a State Pension
- Knows how to obtain a National Insurance contribution record

For Type II

As For Type I plus:

- Helps people to obtain forecasts and claim successfully
- Knows the effect of pension choices on benefit entitlement
- Knows the effect of deferring State Pension and can research the advantages and disadvantages for individual clients
- Has a broad knowledge about entitlement to Additional State Pension and retirement pensions for those who reached pension age before April 2016
- Has a good knowledge of the rules of entitlement (including entitlement of carers, spouses, divorced people, people with incomplete National Insurance contribution records)
- Has the skills and knowledge to access information on this topic in order to be able to respond to clients
- Understands key legal concepts, researches relevant legislation and case law on the above, applies an interpretation which assists clients and advises on options
- With advice, support and supervision in complex cases, disputes or appeals a decision
- Is familiar with relevant legislation and case law

For Type III

As for Types I and II plus:

- Prepares submissions to Tribunals which contain both a statement/summary of key evidence and legal submissions citing legislation and case law, where appropriate, which supports clients' cases
- Undertakes representation before Tribunals (see Generic Competence 1.8,
- Has a working knowledge of the legislation and case law
- Understands the key links with other areas of law

Agency Competence

Enables advisers to advise and advocate competently about benefits for older people. This includes evidence of the following:

For Types I, II and III

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

4.8 Personal Independence Payment, Disability Living Allowance, Attendance Allowance and Scottish Disability Assistance

Adviser Competence

Provides competent advice and advocacy about Personal Independence Payment, Disability Living Allowance and Attendance Allowance (PIP/ DLA/ AA) and the Scottish benefits which will replace them. This includes evidence of the following:

For Type I

- Has a general knowledge of the main rules of entitlement to PIP/DLA/ AA and has a basic understanding of special rules, age rules and qualifying periods and can provide the client with this information
- Knows the effect of PIP/DLA/ AA on other benefits
- Has a general knowledge of the equivalent Scottish benefits as they are introduced
- Knows when to seek advice or refer to a **Type II** or **III** adviser

For Type II

As For Type I plus:

- Helps people to claim successfully and with advice, support and supervision, include relevant helpful evidence and helps clients to obtain evidence
- Helps clients make complaints about inappropriate medical examinations
- Knows how to seek a mandatory reconsideration or supersession to vary the rate of PIP/ DLA/ AA and advises clients about risks
- Knows how to gather and present detailed, relevant evidence and helps clients to obtain evidence
- Has the skills and knowledge to access information on this topic in order to be able to respond to clients
- Understands key legal concepts, researches relevant legislation and case law on the above, applies an interpretation which assists clients and advises on options
- Understands the impact entering residential care or hospital will have on PIP/DLA/AA
- With advice, support and supervision in complex cases, disputes or appeals a decision, advising the client of risks to disputing a decision where they have been awarded some element of the benefit
- Is familiar with relevant legislation and case law
- Has the same knowledge and skills in relation to the equivalent Scottish benefits as they are introduced

For Type III

As for Type II plus:

- Prepares submissions to Tribunals which contain both a statement/summary of key evidence and legal submissions citing legislation and case law, where appropriate, which supports clients' cases
- Undertakes representation before Tribunals (see Generic Competence 1.8, Representation and Litigation)
- Has a working knowledge of the legislation and case law

- Understands the key links with other areas of law

Agency Competence

Enables advisers to advise and advocate competently about benefits for people with a disability. This includes evidence of the following:

For Types I, II and III

- Provides access to medical reference materials (e.g. by Internet, medical dictionary)
- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

4.9 Benefits for People who have Limited Capability for Work

Adviser Competence

Provides competent advice and advocacy about benefits (Universal Credit and Employment and Support Allowance) for people who have limited capability for work. This includes evidence of the following:

For Type I

- Knows that Universal Credit replaces income-related Employment and Support Allowance and when this might apply to clients
- Has a general knowledge of the main rules of entitlement to benefits for people who have limited capability for work including claimant commitment requirements for Universal Credit
- Has a general knowledge of Statutory Sick Pay
- Knows the common exceptions to the work capability assessment ie, who can be treated as having limited capability for work/work-related activity
- Knows the broad outline of the work capability assessment

- Knows the broad outline of who has limited capability for work-related activity and can explain this to the client
- Can identify descriptors in a textbook or in the legislation for limited capability for work, and limited capability for work-related activity
- Helps clients to complete medical questionnaires

For Type II

As For Type I plus:

- Knows how the transition to Universal Credit affects claims and awards of Employment and Support Allowance
- Helps people to claim successfully and with advice, support and supervision, includes relevant helpful evidence and helps clients to obtain evidence
- Helps brief clients who are to attend a medical examination
- Helps clients make complaints about inappropriate medical examinations
- Submits standard letters of appeal
- Has a good understanding of the rules of entitlement including the work capability assessment and exemptions, and SSP payment problems and can give the appropriate information to the client based on their individual circumstances
- Knows how to gather and present detailed, relevant evidence and helps clients to obtain evidence
- Has the skills and knowledge to access information on this topic in order to be able to respond to clients
- Understands key legal concepts, researches relevant legislation and case law on the above, applies an interpretation which assists clients and advises on options
- With support and supervision in complex cases, disputes or appeals a decision or requests a supersession
- Is familiar with relevant legislation and case law

For Type III

As for Types I and II plus:

- Prepares submissions to Tribunals which contain both a statement/summary of key evidence and legal submissions citing legislation and case law, where appropriate, which supports clients' cases
- Undertakes representation at Tribunals (see Generic Competence 1.8, Representation and Litigation)
- Has a working knowledge of the legislation and case law
- Understands the key links with other areas of law

Agency Competence

Enables advisers to advise and advocate competently about benefits for people who are incapable of work or have limited capacity for work. This includes evidence of the following:

- Provides access to medical reference materials (e.g. by Internet, medical dictionary)
- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

4.10 Benefits for Industrial Injury and Disease

Adviser Competence

Provides competent advice and advocacy about benefits for people whose illness or disability is related to employment. This includes evidence of the following:

For Type I

- Has a general knowledge of the main rules of entitlement to Disablement Benefit and associated benefits
- Establishes origins of disability/illness with clients in order to check possible entitlement
- Knows the broad outline of disability assessment
- Can identify the prescribed degrees of disablement and prescribed industrial diseases in a textbook

For Type II

As For Type I plus:

- Helps clients to complete medical questionnaires
- Helps people to claim successfully and with advice, support and supervision, includes relevant helpful evidence and helps clients to obtain evidence
- Helps brief clients who are to attend a medical examination
- Helps clients make complaints about inappropriate medical examinations
- Submits standard letters of appeal
- Has a good understanding of the rules of entitlement including the employed earner definitions and the connection with work
- Knows the impact of aggregated assessments on benefit entitlement
- Knows how to gather and present detailed, relevant evidence and helps clients to obtain evidence
- Has the skills and knowledge to access information on this topic in order to be able to respond to clients
- Understands key legal concepts, researches relevant legislation and case law on the above, applies an interpretation which assists clients and advises on options
- With support and supervision in complex cases, disputes or appeals a decision or requests a supersession
- Is familiar with relevant legislation and case law

For Type III

As for Types I and II plus:

- Prepare submissions to Tribunals which contain both a statement/summary of key evidence and legal submissions citing legislation and case law, where appropriate, which supports clients' cases
- Undertakes representation before Tribunals (see Generic Competence 1.8, Representation and Litigation)
- Has a working knowledge of the legislation and case law
- Understands the key links with other areas of law

Agency Competence

Enables advisers to advise and advocate competently about benefits for people whose illness or disability is related to employment. This includes evidence of the following:

For Types I, II and III

- Provides access to medical reference materials (e.g. by Internet, medical dictionary)
- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

4.11 Benefits for Veterans

Adviser Competence

Provides competent advice and advocacy about benefits for people whose illness or disability is related to service in the armed forces. This includes evidence of the following:

For Type I

- Knows the main differences between the Armed Forces Compensation Scheme and War Pensions
- Has a general knowledge of the main rules of entitlement to disablement benefits for veterans
- Knows about (local) rules on treatment of income for Universal Credit/Housing Benefit and Council Tax Reduction
- Establishes origins of disability/illness with clients in order to check possible entitlement
- Knows the broad outline of disability assessment
- Helps clients to complete medical questionnaires
- Helps brief clients who are to attend a medical examination

For Type II

As For Type I plus:

- Helps people to claim successfully and with advice, support and supervision, includes relevant helpful evidence and helps clients to obtain evidence
- Helps clients make complaints about inappropriate medical examinations
- Submits standard letters of appeal
- Has a good understanding of the rules of entitlement to disablement benefits including the rules about connections with service and time limits
- Knows how to gather and present detailed, relevant evidence and helps clients to obtain evidence
- Has the skills and knowledge to access information on this topic in order to be able to respond to clients

- Understands key legal concepts, researches relevant legislation and case law on the above, applies an interpretation which assists clients and advises on options
- Prepares letters to the Veterans Agency which put across the above points
- Is familiar with relevant legislation and case law

For Type III

As for Types I and II plus:

- Prepares submissions to Tribunals which contain both a statement/summary of key evidence and legal submissions citing legislation and case law, where appropriate, which supports clients' cases
- Undertakes representation before Tribunals (see Generic Competence 1.8, Representation and Litigation)
- Has a working knowledge of the legislation and case law
- Understands the key links with other areas of law

Agency Competence

Enables advisers to advise and advocate competently about benefits for people whose illness or disability is related to service in the armed forces. This includes evidence of the following:

For Types I, II and III

- Provides access to medical reference materials (e.g. by Internet, medical dictionary)
- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

4.12 Carer's Allowance and Carer's Assistance

Adviser Competence

Provides competent advice and advocacy about Carers Allowance and Carer's Assistance. This includes evidence of the following:

For Type I

- Knows the broad eligibility criteria of Carer's Allowance, including hours spent caring and qualifying benefits
- Understands the rules of underlying entitlement to Carer's Allowance

- Knows the impact of earnings on Carer's Allowance
- Knows the most common exclusions from entitlement
- Identifies common situations where claiming Carer's Allowance may negatively affect other people
- Knows who is eligible for Carer's Allowance Supplement
- Knows who is eligible for a Young Carer Grant
-

For Type II

As For Type I plus:

- Helps people to claim with advice, support and supervision
- Has a good understanding of the rules of entitlement to Carer's Allowance and impact on other benefits
- Has the skills and knowledge to access information on this topic in order to be able to respond to clients
- Understands key legal concepts, researches relevant legislation and case law on the above, applies an interpretation which assists clients and advises on options
- With support and supervision in complex cases, disputes or appeals a decision

- Is familiar with relevant legislation and case law
- Has a good understanding of the rules of entitlement to Carer's Allowance Supplement and Young Carer Grant and can advise people when they are eligible for these

For Type III

As for Types I and II plus:

- Prepares submissions to Tribunals which contain both a statement/summary of key evidence and legal submissions citing legislation and case law, where appropriate, which supports clients' cases
- Undertakes representation before Tribunals (see Generic Competence 1.8)
- Has a working knowledge of the legislation and case law
- Understands the key links with other areas of law

Agency Competence

Enables advisers to advise and advocate competently about Carer's Allowance and Carer's Assistance. This includes evidence of the following:

For Types I, II and III

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

4.13 Jobseeker's Allowance

Adviser Competence

Provides competent advice and advocacy about Jobseeker's Allowance (JSA). This includes evidence of the following:

For Type I

- Understands the broad eligibility of JSA (income-based and contribution-based)
- Understands that Universal Credit replaces income-based JSA
- Identifies special cases (for example, sanctions, young people aged 16 or 17)
- Aware of better-off calculations
- Understands the claimant commitment and is aware of sanctions should there be a failure to comply
- Helps people to claim successfully and advises how to present personal circumstances effectively to the DWP

For Type II

As For Type I plus:

- Knows how the transition to Universal Credit affects claims and awards of JSA
- Has a good understanding of the rules of entitlement to Jobseeker's Allowance, including sanctions and refusals
- Has the skills and knowledge to access information on this topic in order to be able to respond to clients
- Understands key legal concepts, researches relevant legislation and case law on the above, applies an interpretation which assists clients and advises on options
- With support and supervision in complex cases, disputes or appeals a decision or requests a supersession
- Submits standard letters of appeal in cases involving sanctions or refusal of benefit
- Is familiar with relevant legislation and case law

For Type III

As for Types I and II plus:

- Prepares submissions to Tribunals which contain both a statement/summary of key evidence and legal submissions citing legislation and case law, where appropriate, which supports clients' cases
- Undertakes representation before Tribunals (see Generic Competence 1.8)
- Has a working knowledge of the legislation and case law
- Understands the key links with other areas of law

Agency Competence

Enables advisers to advise and advocate competently about Jobseeker's Allowance. This includes evidence of the following:

For Types I, II and III

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

4.14 Benefits for Maternity, Paternity and Adoption

Adviser Competence

Provides competent advice and advocacy about benefits for maternity, paternity and adoption. This includes evidence of the following:

For Type I

- Knows the broad eligibility criteria of benefits for maternity, paternity and adoption

- Has broad knowledge to identify clients who are eligible for Statutory Maternity Pay, Maternity Allowance, Statutory Paternity Pay, Statutory Adoption Pay and Statutory Shared Parental Pay
- Can identify problems or non-payment by employers and make referrals to a **Type II** or **III** adviser
- Has broad knowledge of the relationships between different maternity benefits
- Helps people to claim successfully and to notify their employer

For Type II

As For Type I plus:

- Has a good understanding of the rules of entitlement to benefits for maternity, paternity and adoption including qualifying dates and excluded groups
- Has the skills and knowledge to access information on this topic in order to be able to respond to clients
- Understands key legal concepts, researches relevant legislation and case law on the above, applies an interpretation which assists clients and advises on options
- With support and supervision in complex cases, disputes or appeals a decision or requests a supersession
- Is familiar with relevant legislation and case law
- Knows the relationship with employment, discrimination, human rights and European law and makes informed referrals to **Type III** advisers

For Type III

As for Types I and II plus:

- Prepare submissions to Tribunals which contain both a statement/summary of key evidence and legal submissions citing legislation and case law, where appropriate, which supports clients' cases

- Undertakes representation Tribunals (see Generic Competence 1.8, Representation and Litigation)
- Has a working knowledge of the legislation and case law
- Understands the key links with other areas of law

Agency Competence

- Enables advisers to advise and advocate competently about benefits for people who are on maternity, paternity or adoption leave. This includes evidence of the following:
 - Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
 - Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

4.15 Bereavement Benefits

Adviser Competence

Provides competent advice and advocacy about benefits for people who have been bereaved. This includes evidence of the following:

For Type I

- Knows the broad eligibility criteria of bereavement benefits including marriage and civil partnership requirements
- Knows that there may be implications because of Scots law about common law marriage, invalid, disputed and uncertain marriages and refers to a **Type III** adviser
- Helps people to claim successfully

For Type II

As For Type I plus:

- Has a good understanding of the rules of entitlement to bereavement benefits including the implications of the living together rules, special cases such as work related deaths
- Refers to lawyers who are skilled and experienced in family law in cases involving void, disputed or uncertain marriages
- Has the skills and knowledge to access information on this topic in order to be able to respond to clients
- Understands key legal concepts, researches relevant legislation and case law on the above, applies an interpretation which assists clients and advises on options
- With support and supervision in complex cases, disputes or appeals a decision or requests a supersession
- Is familiar with relevant legislation and case law

For Type III

As for Types I and II plus:

- Prepare submissions to Tribunals which contain both a statement/summary of key evidence and legal submissions citing legislation and case law, where appropriate, which supports clients' cases
- Undertakes representation before Tribunals (see Generic Competence 1.8, Representation and Litigation)
- Has a working knowledge of the legislation and case law
- Understands the key links with other areas of law

Agency Competence

- Enables advisers to advise and advocate competently about bereavement benefits. This includes evidence of the following:
- Has details of death registration services
- Contact details for relevant local law practitioners

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

4.16 Benefits for People in Public Care

Adviser Competence

Provides competent advice and advocacy about the implications of public care on benefits and tax credits. This includes evidence of the following:

For Type I

- Knows that public care may have implications for benefit entitlement
- Helps people to claim and present their circumstances accurately
- Knows how capital will be treated by Local Authorities and DWP when a person enters residential care

For Type II

As For Type I plus:

- Advises about the key benefit issues which arise when people are in public care including the effect of hospital admissions and residential accommodation provided by a local authority
- Advises about the key benefit issues which arise when people are in accommodation provided by a local authority under The Children (Scotland) Act 1995
- Advises about the effect of prison on benefits and has a knowledge of the impact on benefits on remand, when sentenced and on release
- Has a good understanding of the effect of public care on benefits, including Personal Independence Payment, Disability Living Allowance, Attendance Allowance and Child Benefit

- Has a good understanding of the impact of kinship care payments on benefit entitlement. Has the skills and knowledge to access information on this topic in order to be able to respond to clients. Understands key legal concepts, researches relevant legislation and case law on the above, applies an interpretation which assists clients and advises on options
- With support and supervision in complex cases, disputes or appeals a decision or requests a supersession
- Is familiar with relevant legislation and case law

For Type III

As for Types I and II plus:

- Prepares submissions to Tribunals which contain both a statement/summary of key evidence and legal submissions citing legislation and case law, where appropriate, which supports clients' cases
- Undertakes representation before Tribunals (see Generic Competence 1.8, Representation and Litigation)
- Has a working knowledge of the legislation and case law
- Understands the key links with other areas of law

Agency Competence

Enables advisers to advise and advocate competently about benefits for people who are in public care. This includes evidence of the following:

For Types I, II and III

- Provides access to relevant textbooks
- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

4.17 Benefits for Students

Adviser Competence

Provides competent advice and advocacy about benefits and tax credits for students. This includes evidence of the following:

For Type I

- Knows broadly which students are eligible for benefits
- Identifies special groups (for example, people on out of work benefits or low income benefits studying part-time, young people estranged or living away from parents/carers, students with a disability) and seeks advice or refers to a **Type II** or **III** adviser
- Knows that there are other sources of funding, for example, Education Maintenance Allowance, student loans and grants, bursaries and discretionary funds
- Helps people to claim and present their circumstances effectively

For Type II

As For Type I plus:

- Has a good understanding of the benefit entitlement of students
- Has the skills and knowledge to access information on this topic in order to be able to respond to clients
- Understands key legal concepts, researches relevant legislation and case law on the above, applies an interpretation which assists clients and advises on options
- With advice, support and supervision disputes or appeals decisions with the relevant agency or educational institution
- Is familiar with relevant legislation and case law

For Type III

As for Types I and II plus:

- Prepares submissions Tribunals which contain both a statement/summary of key evidence and legal submissions citing legislation and case law, where appropriate, which supports clients' cases
- Undertakes representation before Tribunals (see Generic Competence 1.8, Representation and Litigation)
- Has a working knowledge of the legislation and case law
- Understands the key links with other areas of law

Agency Competence

Enables advisers to advise and advocate competently about benefits for students. This includes evidence of the following:

For Types I, II and III

- Provides access to relevant textbooks
- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

4.18 Benefits for People from Abroad and People Subject to Immigration Control

Adviser Competence

Provides competent advice and advocacy about benefit and tax credit entitlement for people from abroad and people subject to immigration control. This includes evidence of the following:

Note: this competence does not include advice about immigration law or immigration status. To advise in these areas, advice agencies will normally

have to be registered with the Office of the Immigration Services Commissioner

For Type I

- Knows that clients' immigration status or recent arrival from abroad may have implications for benefit and tax credit entitlement and refers to a **Type II** or **III** adviser

For Type II

As For Type I plus:

- Has a good understanding of the benefit entitlement of people from abroad (for example, the effect of a claim on immigration status, people excluded from benefits and the right to reside and habitual residence tests)
- Has a good understanding of the status to access public funds
- Has the skills and knowledge to access information on this topic in order to be able to respond to clients
- Understands key legal concepts, researches relevant legislation and case law on the above, applies an interpretation which assists clients and advises on options
- With support and supervision in complex cases, disputes or appeals a decision or requests a supersession
- Is familiar with relevant legislation and case law

For Type III

As for Types I and II plus:

- Prepares submissions to Tribunals which contain both a statement/summary of key evidence and legal submissions citing legislation and case law, where appropriate, which supports clients' cases
- Undertakes representation before Tribunals (see Generic Competence 1.8)

- Has a working knowledge of the legislation and case law
- Knows how to research Reciprocal Agreements and EU law
- Understands the key links with other areas of law

Agency Competence

Enables advisers to advise and advocate competently about benefits for people from abroad and/or who are subject to immigration control. This includes evidence of the following:

- Has details of immigration advisers
- Provides access to relevant textbooks
- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

4.19 Ancillary Benefits

Adviser Competence

Provides advice and advocacy about ancillary benefits such as those available to help with education, health costs, child support and concessions. This includes evidence of the following:

For Type I

- Knows general entitlement to Education Maintenance Allowances, free school meals, grants for school clothing, Best Start Foods, help with other education related costs for children and young people and help towards health costs. Knows relevant local variations, concessions and the groups which are passported to entitlement
- Helps clients to apply
- Knows that Social Work Departments have duties and powers to make financial payments to certain people

- Knows about loans for mortgage interest from DWP and basic eligibility rules for these
- Refers to specialist advisers in cases such as non-payment of earnings, non-payment of National Minimum Wage, problems with Income Tax

For Types II and III

As For Type I plus:

- Has a good understanding of the eligibility for ancillary benefits
- Has the skills and knowledge to access information on this topic in order to be able to respond to clients
- Prepares letters to other agencies which put across the above points succinctly and persuasively

Agency Competence

Enables advisers to advise and advocate competently about ancillary benefits. This includes evidence of the following:

- If a local advice service, has details of local arrangements, concessions, etc
- Provides access to relevant textbooks
- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

4.20 Financial Statements

Adviser Competence

Prepares accurate Financial Statements with clients. This includes evidence of the following:

For Type I

- Explains to clients the purpose of the financial statement and the evidence they will need to enable this to be completed on referral to a Type II or III adviser

For Type II

As For Type I plus:

- Accurately identifies and verifies current income, equity (where possible and noting source), assets, expenditure and liability for debts. Identifies and records information regarding secured lending. Records verification of client's details in accordance with agency policy
- Uses standard forms to prepare a financial statement commensurate with agency policy or, legislative requirements, (Common Financial Statement/Common Financial Tool). Ensures final statement is agreed with client and copy of statement is retained by agency and copied to client.
- Makes realistic allowances for exceptional or variable expenditure ("unbudgeted" expenditure)
- Satisfactorily and credibly explains any controversial or exceptional expenditure and for statutory options provide evidence of exceptional expenditure
- Averages variable income in a realistic and reasonable way with an accompanying explanation
- Does not include current credit repayments in expenditure, unless these are of an essential nature, e.g. hire purchase payments for a car needed to travel for employment or payment to a catalogue for clothing where a client lives in a remote, rural area. Provides explanation of inclusion of these items when compiling expenditure figures

Agency Competence

Enables advisers to complete accurate financial statements. This includes evidence of the following:

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given
- Provides access to appropriate financial statements/ online Common Financial Tool
- Has access to data on reasonable household expenditure (such as approved trigger figures)
- Has operational guidance and/or policy on completing Financial Statements and recording of verification of documentation provided by the client
- Holds appropriate FCA authorisation

4.21 Liability for Debts, Extortionate Credit, Unfair Contract Terms, Unenforceable Debts, Creditor Malpractice, Codes of Practice, etc

Adviser Competence

Able to advise and advocate about enforceability of debts, creditor malpractice and relevant Codes of Practice/Guidance to protect debtor. Where necessary, make appropriate referrals in relation to these issues. This includes evidence of the following:

For Type I

- Understands that a debt may not be enforceable because of various points of law
- Refers any such cases to a **Type II** or **III** adviser

For Type II

As For Type I plus:

- Has a good general knowledge of the legal principles about enforceability issues including jurisdiction being outside Scotland, unfair, unclear or fraudulent/misrepresented contract terms, third party liability, unfair relationships, prescription and limitation, unlicensed lending, failure to comply with requirements of consumer credit legislation or codes of practice/guidance
- Recognises possible cases of malpractice by debt collectors and/or creditors including possible criminal offences and refers to appropriate Ombudsman/enforcement/investigatory bodies
- Ensures that these points are checked at initial interview before further action is taken to assist debtor
- With advice and support, accurately identifies cases where a defence to court action or diligence might arise using the above points of law
- Accurately explains the legal position about unlicensed lending and refers suspected cases to the relevant Trading Standards service. Accurately advises clients about the legal and practical consequences of unlicensed lending
- With advice and support accurately identifies cases where government and creditors' Codes of Practice/Rules (e.g. FCA CONC 7) may have been breached and assists clients to use these in any complaint or litigation
- With advice and support, accurately identifies credit agreements which are unenforceable (or which are only enforceable with leave of a Court) because they do not comply with the requirements of consumer credit legislation
- With advice and support, accurately identifies cases where possible prescription limitation, jurisdiction, misrepresentation, unclear or unfair terms may apply and knows when to refer to a lawyer who is skilled and knowledgeable about such matters

For Type III

As for Types I and II plus:

- Prepares submissions for litigation which contain both a statement/summary of key evidence and legal submissions citing legislation and case law which supports clients' cases
- Has a working knowledge of the relevant legislation and case law
- Understands the key links with other areas of law
- Knows when to refer to lawyers who are knowledgeable and experienced in the relevant area of law

Agency Competence

Enables advisers to advise and advocate competently on liability, etc, issues. This includes evidence of the following:

- Has effective links with Trading Standards, police, regulatory and trade bodies, etc in order to seek specialist advice and to make effective referrals
- Has up to date lists of specialist and legal advisers
- Has copies of/access to current Codes of Practice/Rules/legislation
- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

4.22 Identifying and Agreeing Options in Debt Cases

Adviser Competence

Uses all relevant information provided by the client to identify viable options. Ensures that options are given to the client in a manner that enables the client to make an informed choice. Records all factors impacting on the client's choice of option and any barriers to the client's successful implementation of their chosen option.

For Type I

- Has knowledge of the agency's debt advice process, makes appropriate referral to a **Type II** adviser and provides guidance and information to the client to prepare them so as to make best use of their appointment

For Type II

As For Type I plus:

- Has knowledge of various debt management options available to clients
- Has the skills and knowledge to access information so that options can be identified and explained fully, clearly and objectively to clients e.g. using the Common Financial Tool to identify statutory option
- Can accurately identify the implications for clients of all possible options and explains these to the client in a manner that enables the client to understand these and make an informed choice. Makes clear notes of these discussions
- Accurately identifies cases where repayment plans (token or pro-rata), write-offs, payment moratoria, Third Party Payments from benefits, Debt Payment Programmes (DPP²), bankruptcy (including the Minimal Assets Process (MAP) route), sale of property and other options, may be of assistance to clients. Is able to identify where the client should be advised to seek independent financial advice in relation to e.g. re-mortgage of property
- If not appropriately trained, refers any possible DPP cases to a money adviser approved to provide DAS or for sequestration (Note: Applications for a DPP must be made by an adviser who is approved to do so)
- Records the outcome of the discussion regarding options open to the client and the rationale for the choice of option by the client. Agrees the actions needed to implement the choice of option

Agency Competence

Enables advisers to identify and discuss options with clients. Ensures that clear records are kept detailing the discussions between adviser and client

and the outcome of these discussions. This includes evidence of the following:

For Types I and II

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the type of advice being given
- Keeps a list of those Type II advisers authorised by the agency as being a competent approved money adviser
- Has access to written information for clients about options
- Provides template to enable advisers to record options discussed and the rationale for the choice of option
- Has contact details for the Accountant in Bankruptcy (and MATRICS for second tier support)

4.23 Negotiating and Making Offers to Creditors

Adviser Competence

Accurately prioritises debts and undertakes effective negotiations with creditors making offers to repay. This includes evidence of the following:

For Type I

- Refers to a **Type II** or **III** adviser (some **Type I** advisers may be able to undertake **Type II** activities with advice support and supervision while being competent to do **Type I** work elsewhere)

For Type II

As For Type I plus:

- Uses financial statement to make payment offers to priority creditors based on available income and/or minimum payments terms
- Accurately assesses any available income for paying non-priority debts

- Uses financial statement to make payment offers (including write off requests, payment moratoria and token payments) to non-priority creditors based on available income and the option chosen by the client
- Has a good understanding of which debts can be repaid by deductions from benefits
- During negotiations, demonstrates an understanding of legal options in order to reinforce negotiating stance
- Has working knowledge of payments distribution systems
- Refers to a more skilled adviser if creditors do not accept initial offers

For Type III

As for Types I and II plus:

- Applies these competences for and during Court proceedings (e.g. presents repayment offers in undefended claims in Sheriff Court if permitted to represent)

Agency Competence

Enables advisers to prioritise and make offers. This includes evidence of the following:

- Has liaison arrangements with Sheriff Court
- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice, advocacy and representation

- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

4.24 Diligence, Diligence Stoppers and Court Proceedings

Adviser Competence

Understands the options for diligence and remedies to protect clients. This includes evidence of the following:

For Type I

- Accurately identifies any court procedures and diligence which is currently being used by a creditor to identify emergency situations to refer to a Type II or III adviser
- Accurately identifies the common court forms used in debt cases in order to make appropriate referrals to a Type II or III adviser

For Type II

As For Type I plus:

- Identifies the various forms of diligence which are available to creditors including extra-statutory recovery (DEA)
- Helps clients to negotiate pre-court to avoid unnecessary hearings
- Helps clients complete and register an Moratorium to allow the client and adviser time to formulate a suitable course of action to deal with client's situation

For Type III

As for Types I and II plus:

- Has good working knowledge of the Civil Jurisdiction and Judgements Act 1982
- Assist client to make applications to cease attachment where legally incompetent or unduly harsh, restriction of attachment, release or redemption where possible of attached goods, jointly owned goods

and buy back of attached goods at appraised value. Responding to an earnings arrestment by challenging legal competence and undue harshness or with time to pay order/time order. Also responding to an earnings arrestment or direct earnings attachment using Debt Payment Plan under DAS, Protected Trust Deed or sequestration legislation as appropriate.

- Assists clients to deal with applications under The Arrestment Jurisdiction (Scotland) Order 2009
- Assists clients to respond to Exceptional Attachment Orders including ensuring that Sheriff Officers have followed correct steps and accurately identified protected goods
- Explain to clients a creditor's application for an Inhibition
- Applies the above remedies in Court, where this is permitted
- Knows rules and practices about representation in Court
- Knows when to refer to lawyers who are knowledgeable and experienced in the relevant area of law

Note: Some **Type III** activities may only be done by lawyers

Agency Competence

Enables advisers to understand diligences and respond to diligence to protect debtor. This includes evidence of the following:

- Has liaison arrangements with Sheriff Court
- Has lists of specialist legal advisers as per agency policy regarding independence/conflict of interest
- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given
- Has list of advisers trained and approved for DAS by the agency

4.25 Bankruptcy and Trust Deeds

Adviser Competence

Accurately identifies cases which are suitable for bankruptcy action, to advise and advocate in cases where there is a creditor's petition/warrant to cite in bankruptcy and to assist with Trust Deeds. This includes evidence of the following:

For Type I

- Understands that there is a range of insolvency options, makes referral to approved Type II adviser and prepares client for the appointment

For Type II

As For Type I plus:

- Uses the Common Financial Tool to identify appropriate statutory options (including DAS)
- Advises clients when evidence of expenditure, income and assets is needed
- Understands the consequences of rent arrears being included in bankruptcy and the effect after discharge.
- Identifies when bankruptcy and Trust Deeds may be appropriate and fully explains the advantages and disadvantages of each
- Explores alternatives to bankruptcy
- Knows the financial' legal and personal implications of particular courses of action and explains these to clients
- Provides/refers the client for financial education if appropriate
- Refers client to an approved adviser as appropriate
- If an approved adviser, with client's informed agreement, prepares a Debtor's Petition for Bankruptcy, signs the certificate of sequestration if appropriate and takes account of requirements of all current bankruptcy legislation

- Identifies where the client may be able to petition for bankruptcy using the Minimal Assets Procedure (MAP)

For Type III

As for Types I and II plus:

- Identifies the grounds for and assists a client to respond to a creditor's petition/Warrant to Cite in bankruptcy and a Statutory Demand
- Provides second tier advice to other advisers on this subject
- Provides advice and guidance on the consequences of failed Trust Deeds
- Knows rules and practices about representation in Court
- Knows when to refer to lawyers who are knowledgeable and experienced in the relevant area of law

Agency Competence

Enables advisers to understand sequestration and related matters and to provide accurate and well-informed advice and help. This includes evidence of the following:

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given
- Has access to the AiB portal
- Has contact details for Accountant in Bankruptcy and has a list of insolvency practitioners kept as per agency policy on independence and conflict of interest
- Has list of advisers approved by the agency to sign certificates of sequestration, if not within the agency, then where to make referral

4.26 The Debt Arrangement Scheme

Adviser Competence

Advisers approved to provide money advice under the DAS Regulations assist clients with submissions for approval, variations and revocations of a Debt Payment Plan (DPP) under the Debt Arrangement Scheme (DAS).

Type I

N/A

Type II

- Understands the responsibilities of the approved money adviser under DAS Regulations including need to ensure continuation of DAS service if the approved money adviser leaves.
- Understands the need to check all financial information and verify income
- Understands the need to check details of all debts with creditors and to include all debts within application for a DPP Uses the Common Financial Tool to assess the client's disposable income
- Explains the implications of entering into and maintaining a DPP and advises about budgeting
- Makes application for a Moratorium to the Accountant in Bankruptcy (AiB) where appropriate
- Provides assistance with and makes applications for an application for approval, variation or revocation of a DPP; or an application for the review of determination by the DAS administrator
- Provides continuing advice to the client throughout the life of the DPP where requested

Type III

As for Type II plus:

- As instructed by the client, provides lay representation in court

Agency Competence

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice, advocacy and representation
- Facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given
- Keeps a list of money advisers approved as per the Debt Arrangement Scheme Regulations
- Provides access to the Debt Arrangement Scheme Hub (DASH) IT system

4. 27 Recalls and Appeals against Court Decrees and Orders

Adviser Competence

Assists clients with appeals, minutes of recall and other applications in Court. This includes evidence of the following:

Type I

- Understands that there may be ways of responding to Court Orders and refers to a **Type II** or **III** adviser
- Can recognise commonly used Court forms

Type II

As For Type I plus:

- Advises clients on the options and possible outcomes in respect of the following applications to Court: recall of decree, dismissal, continuation, sisting
- Advises clients about the implications of different Court orders

- Recognises where a decree has been granted the client may wish to seek advice on potential appeal or recall and makes referral appropriately

Type III

As for Types I and II plus:

- Identifies possible grounds for appeal on a point of law and refers to a lawyer who is skilled and knowledgeable in this area of law
- Where granted rights of audience, and according to local practice, demonstrates an ability to act on behalf of a client, either by personal or written representation in Court
- Seeks a second opinion in cases of possible appeal
- Refers cases to a lawyer who is skilled and knowledgeable in this area if the adviser is unable to do this work or lacks expertise

Agency Competence

Enables advisers to understand grounds for appeal and applications in Courts and to provide accurate and well-informed advice and help. This includes evidence of the following:

- Has contact details for relevant Courts
- Has access to relevant sources of specialist information
- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given
- Has lists of specialist legal advisers

4.28 Utility Debts

Adviser Competence

Advises and assists people who have utility debts: gas, electricity, telephone and broadband. Is aware of issues relating to fuel poverty and of the assistance available from various suppliers and schemes to assist individuals to make their homes more energy efficient. This includes evidence of the following:

For Type I

- Knows what actions may be taken by utility creditors against debtors
- Identifies emergency situations and refers to a **Type II** adviser
- Knows when it is possible to apply for deductions (Third Party Payments) from means-tested benefits and informs the utility, seeking suspension of action and makes appropriate referral to a Type II adviser
- Understands fuel poverty and the impact this can have on a household

For Type II

As For Type I plus:

- Advises clients about their obligations and the protection available under utility supply legislation and industry Codes of Practice
- Identifies fuel poverty in households and works with the client to try and alleviate this e.g. by accessing suppliers' and government schemes
- Understands industry regulator complaints and enforcement procedures and makes effective use of these to protect clients
- Prepares and sends initial letters before legal action and refers to a lawyer who is skilled and knowledgeable in this area of the law

Agency Competence

- Enables advisers to provide advice and advocacy about utility debts. This includes evidence of the following:
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- Has contact details of the utility industry and regulatory bodies and up to date copies of Codes of Practice
- Has access to relevant information sources
- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given
- Has lists of specialist legal advisers

4.29 Local and National Tax Debts

Adviser Competence

Provides advice and advocacy to clients about recovery of national and local tax debts (Council Tax, Income Tax). This includes evidence of the following:

For Type I

- Understands in outline the summary warrant procedure and the diligence options for national and local tax debts
- Recognises common documents, identifies emergency situations and refers to a **Type II** or **III** adviser
- Knows when a benefits check may be relevant and refers the client to a suitable adviser

For Type II

As For Type I plus:

- Refers to a tax adviser or accountant or other specialist adviser to check assessment of Income Tax
- Knows about Council Tax Reduction, discounts, reductions and exemptions and helps clients to apply

- Helps debtor to apply for deductions (Third Party Payments) from means-tested benefits
- Knows the legal relationship between local authorities and their collecting agents
- Has a good knowledge of the procedures for summary warrants and diligence options, including the conditions to be met for granting attachment orders
- Negotiates verbally and in writing with Sheriff Officers and/or local or national taxation officials in order to protect debtor's position, including suspension of action in order to assess the situation
- Identifies possible legal action and refers to a **Type III** adviser or lawyer
- Prepares letters to MSPs, MPs and Scottish Public Services Ombudsman to highlight maladministration

For Type III

As for Types I and II plus:

- Researches grounds for possible legal action drafts and sends any required letters before legal action and refers clients to a lawyer who is skilled and knowledgeable in this area of the law

Agency Competence

Enables advisers to provide advice and advocacy about local and national tax debts. This includes evidence of the following:

- Has contact details for Sheriff Officers, debt collection agencies, local authority and national tax collection liaison staff and copies of current Codes of Practice
- Has good links with local Welfare Rights service providers
- Has lists of specialist advisers
- Has current, relevant information resources

- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

4.30 Rent Arrears

Adviser Competence

Advises and assists people who have rent debts. This includes evidence of the following:

For Type I

- Knows that the type of tenancy relates to the client's rights in eviction and occupation proceedings
- Understands in outline the legal and administrative procedures for rent arrears and evictions, recognises common documents relating to eviction proceedings and makes referral to a Type II or II adviser
- Is aware of where Housing Benefit/ housing element of Universal Credit may be claimed. Is aware of when Discretionary Housing Payment may be made. Is also aware of backdating rules. Refers case to **Type II** adviser
- Knows the likely triggers for debt (e.g. illness, relationship breakdown, unemployment), checks on these sensitively and has knowledge of agencies which may help
- Recognises common documents such as Notice to Leave, Notice to Quit and Notice of Proceedings. Is able to identify emergency situations and refers to a Type II or III adviser
- Understanding of the need to consider the whole benefits and debt situation and refers to Type II adviser
- Helps debtor to apply for deductions ("Third Party Payments") from means tested benefits

- Can identify if the client may be vulnerable and refers to Type II adviser to get Local Housing Allowance/Universal Credit Housing Element paid directly to landlord to prevent arrears

For Type II

As For Type I plus:

- Has good knowledge of the scope for possible defences against possession actions and existence of procedures for bringing a case back before a court or tribunal (e.g. recall procedure) and is able to assist or make an appropriate referral.
- Has a basic knowledge of disrepair and procedures for filing counterclaims in order to refer to a specialist adviser. Has an understanding of rent lawfully due, withholding of rent and abatement procedures
- Has a good understanding of the legal procedures for rent debts by type of residential tenancy e.g. Summary Cause Rules or First Tier Tribunal procedures
- Has a good knowledge of policies and procedures used by main local social landlords
- Understands the consequences of rent arrears being included in bankruptcy and the effect after discharge and can liaise with landlord if seeking repayment
- Has knowledge of historic debt or prescription
- Has a good knowledge of relevant matters for rent arrears in the private rented sector and significance of amount owed
- Helps debtor to apply for deductions ("Third Party Payments") from means tested benefits
- Assists the client to apply for Housing Benefit/ housing element of Universal Credit. Assists client to apply for Discretionary Housing Payment. Assists client with claim for backdate.

- Understands the need to respond in terms of section 11 notices under Homelessness etc (Scotland) Act 2003 see also Housing Specific Competence 2.10 Homelessness in particular prevention)
- Contacts landlord to seek emergency action or suspension of eviction (see also Housing Specific Competence 2.7, Eviction).
- Has good knowledge of the scope for possible defences against possession actions and existence of procedures for bringing a case back before a court or tribunal (e.g. recall procedure) and when to refer to a Type III adviser

Type III

As For Type I and II plus

- Is able to implement prevention procedures.
- Negotiates verbally and in writing with landlord to protect clients' position and make repayment offers
- Identifies common legal defences or counterclaims and briefs a solicitor (or where the option is permitted, a suitably qualified and experienced lay representative) who is skilled and knowledgeable in this area
- Identifies possible issues for counterclaim (e.g. disrepair) (see also Housing Specific Competence 2.4, Disrepair in Rented Housing) and refers to a solicitor (or where the option is permitted, to a suitably qualified and experienced lay representative) who is skilled and knowledgeable in this area
- Helps agency to identify appropriate strategies and actions to prevent homelessness and stabilise tenancies across sectors. Understands the potential of housing support to achieve positive outcomes for clients

Note: Where possible, clients facing eviction should be referred to a solicitor (or where the option is permitted, to a suitably qualified and experienced lay

representative) who is skilled and knowledgeable in this area at as early a stage as possible

Agency Competence

Enables advisers to provide advice and advocacy about rent debts. This includes evidence of the following:

- Has leaflets and reference books or electronic resources on security of tenure and Court and Tribunal procedures
- Has information about possession procedures, preferably in a format which can be copied or given to clients
- If agency does not provide housing or benefits advice and assistance, has contact details in order to make appropriate referrals (e.g. solicitors, law centres and in court advisers, advice agencies
- Has contact details for Sheriff Officers, local registered social landlords and major local private landlords and copies of current Codes of Practice and rent arrears policies
- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

4.31 Mortgages and Secured Loans

Note: The correct term in Scotland is secured loan. However the term mortgage is widely used and has entered statute via the Mortgage Rights (Scotland) Act 2001. The terms mortgage and secured loan are used interchangeably in this section

Adviser Competence

Advises and assists people who have mortgage/secured loan debts. This includes evidence of the following:

For Type I

- Identifies where the client may be eligible to apply for benefits to help with their housing costs and refers the client to apply for this
- Knows the likely triggers for debt (e.g. illness, relationship breakdown, unemployment), checks on these sensitively and has knowledge of agencies which may help
- Understands in outline the procedures for mortgage/secured loan arrears and ejections
- Recognises common documents and identifies emergency situations and refers to a **Type II** or **III** adviser, for "first aid" advice about options
- Basic understanding of Home Owners Support Fund (Mortgage to Rent Scheme and Mortgage to Shared Equity Scheme and refers to a Type II or III adviser

For Type II

As For Type I plus:

- Knows in outline the procedures and Codes of Practice for mortgage/secured loan arrears and ejections
- Knows in detail the appropriate use of Part 1 and Part 2 of the Home Owner and Debtor Protection (Scotland) Act 2010.
- Knows in detail the eligibility criteria in terms of Home Owners Support Fund (Mortgage to Rent Scheme and Mortgage to Shared Equity Scheme)
- Contacts lenders to seek emergency action or suspension of ejection understanding summary application procedure relating to recall of decree and conditions relevant to recall
- Understands the need to respond in terms of section 11 notices under Homelessness etc (Scotland) Act 2003 and recognise the extension of this duty to Trustees in Bankruptcy and Trust Deeds)
- Knows in outline arrangements for regulating mortgages/secured loans. Negotiates verbally and in writing with lenders in order to

protect client's position and make repayment offers (and in accordance with Money/Welfare Related Advice Competences, 4.20, 4.21, 4.22, 4.23)

- Identifies appropriate strategies for dealing with mortgage/secured loan possession
- Has a good understanding that the legal aid system may provide assistance and that there are financial eligibility criteria

For Type III

As for Types I and II plus:

- Has a good understanding of the consumer credit legislation and unfair contract terms defences to secured loans and small mortgages including prescription/limitations
- Identifies possible defences such as undue duress
- Has a good understanding that main lenders have different procedures to be applied
- Has detailed knowledge of the potential assistance that the Home Owner and Debtor Protection (Scotland) Act 2010 can give to Home Owners and Entitled Residents in the context of actions to recovery possession, sequestration and trust deeds
- Has detailed knowledge of pre action requirements on creditors in terms of relevant action
- Has detailed knowledge of the conditions and procedure for recall of decree
- Identifies possible legal defences and refers to a solicitor or where the option is permitted to a suitably qualified and experienced lay representative internally within their service or externally who is skilled and knowledgeable in this area
- Identifies possible legal defences and refers to a solicitor or where the option is permitted to a suitably qualified and experienced lay representative internally within their service or externally who is skilled and knowledgeable in this area (see agency competence below)

- Approved lay representative must comply with all the requirements of the Home Owners and Debtor Protection (Scotland) Act 2010, all subsequent regulations and codes of guidance.
- Knows in detail the eligibility criteria in terms of Home Owners Support Fund (Mortgage to Rent Scheme and Mortgage to Shared Equity Scheme)
- Has a good understanding of the legal aid system financial eligibility criteria

Note: Where possible, clients facing ejection should be referred to a solicitor (or where the option is permitted to a suitably qualified and experienced lay representative) who is skilled and knowledgeable in this area at as early a stage as possible

Agency Competence

Enables advisers to provide advice and advocacy about mortgage/secured loan debts. This includes evidence of the following:

- Has information about mortgages/secured loans, preferably in a format that can be copied or given to clients
- Has information about possession procedures, preferably in a format which can be copied or given to clients
- Approving Agencies authorising lay representative must comply with all the requirements of the Home Owners and Debtor Protection (Scotland) Act 2010, all subsequent regulations and codes of guidance
- Approving Agencies must ensure that approved lay representatives are skilled and able to satisfy Sheriffs that the adviser is competent to represent the interests of the debtor or entitled person as an approved lay representative within the limitations of the Home Owner and Debtor Protection (Scotland) Act 2010
- Has information about priority creditors, their Codes of Practice and their legal responsibilities and a system for updating these

- Has contact details for Sheriff Officers, common lenders and copies of current Codes of Practice
- Agency has good professional relationship with the Sherriff Clerks office/offices
- Agency has access to all the relevant and up to date rules of the Court

- Has list of specialist legal advisers and knowledge of the legal aid system
- Has good links with housing and welfare rights advice providers
- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

4.32 Civil and Criminal Fines and other Financial Penalties

Adviser Competence

Advises and assists people who are in arrears with payment towards fines and other financial penalties. This includes evidence of the following:

For Type I

- Recognises such debts as priority debts
- Knows what action may be taken against clients for non-payment

Identifies emergency situations and refers to a **Type II** or **III** adviser

For Type II

As For Type I plus:

- Has a broad understanding of which fines or financial penalties may be appealed and refers to lawyers who are skilled and knowledgeable in this area
- Helps clients to apply for variation of payment terms
- Helps clients to apply for criminal fines to be remitted
- Negotiates verbally and in writing with Sheriff Officers and/or Court officials in order to protect debtor's position where appropriate
- Identifies possible legal action and refers to a **Type III** adviser
- Prepares and sends initial letters before legal action and refers to a lawyer who is skilled and knowledgeable in this area of the law

For Type III

As for Types I and II plus:

- Researches grounds for possible legal action and refers to a lawyer who is skilled and knowledgeable in this area of the law
- Assists clients to apply for variation of payment terms or remission of criminal fines

Agency Competence

Enables advisers to provide advice and advocacy about fines and financial penalty debts. This includes evidence of the following:

- Has contact details for Court officials
- Has list of specialist legal advisers
- Promotes an organisational culture which supports continuous learning on this topic and its importance as an aid to effective advice and advocacy
- Provides or facilitates supervision, training and updating on this topic which is appropriate to the Type of advice being given

4.33 Business Debts

Adviser Competence

To identify cases involving business debt and make effective and appropriate referrals. This includes evidence of the following:

For Type I

- Accurately identifies when debts include a business or trading debt
- With advice, support and supervision, contacts creditors in emergency to seek suspension of action
- Refers to an adviser or other specialist who deals with business debts

For Types II and III

As For Type I plus:

- Informs debtor of the possible options for debt enforcement
- Contacts creditors in emergency to seek suspension of action
- Assists business with Non Domestic Rates debts and advises on Government schemes that can provide relief
- Informs client of Business DAS option if appropriate service and refers client to an agency providing this

Agency Competence

Enables advisers to accurately identify business or trading debts and make appropriate and effective referrals. This includes evidence of:

- Has a list of specialist business advisers
- Has contact details for Business Debtline