



## Press Release

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13 January 2021

### **Law Society judicial review secures Legal Aid Agency rethink**

A legal challenge brought by the Law Society of England and Wales has led the lord chancellor to give solicitors the right to have civil legal aid bills between £2,500 and £25,000 assessed by either the Legal Aid Agency (LAA) or specialist judges, while the LAA consults with the profession on the most appropriate way for legal aid costs to be assessed in the future.

Law Society president David Greene said: “It is good news for solicitors and anyone needing legally aided advice that the Law Society’s decisive action has prompted the lord chancellor to rethink the way solicitors are paid for civil legal aid work that is so vital to preserving access to justice.

“We brought this action because the LAA announced changes to the way legal aid costs were assessed without a credible consultation or evidence to support moving cost assessments from the courts into the LAA.

“Our concern was that the LAA may not have the expertise to assess complex costs – historically it has only assessed very low or pre-agreed legal aid bills – whereas cost judges routinely assess the reasonableness of solicitors’ claims for work on complex cases.

“Equally concerning, the LAA has a stake in the outcome of costs assessments – as payments come from its budget – and so it will not always be the appropriate arbiter, whereas a costs judge is in a position to make an impartial, expert assessment.

“We’re relieved the LAA has agreed to engage in a genuine consultation. In the meantime, solicitors can decide which type of assessment suits them best and if they want an independent costs judge to have the final word on what they are paid.

“The Law Society is grateful to Association of Costs Lawyers and the Legal Aid Practitioners’ Group for providing valuable insight into the views of their members on the decision to transfer the assessment of all civil legal aid bills to the LAA.”

The decision to change the assessment arrangements was announced unexpectedly in June 2020. The LAA explained its lack of consultation by arguing it had “conducted a

previous consultation on this issue in 2009/2010”, adding that part of the rationale for the change being implemented a decade later was the impact of Covid-19 on the courts.

The Law Society challenged this by judicial review. The Administrative Court has now formally endorsed a settlement of the Law Society’s claim. Under the terms of the settlement, the lord chancellor will imminently announce a fresh consultation with the profession and other stakeholders on whether civil bills should be assessed in-house by the Legal Aid Agency in future rather than by specialist cost judges and associated arrangements, including for appeals.

## **Ends**

### **Notes for editors**

- The Law Society was represented by in house legal advisors working with external solicitors at Bindmans LLP and David Wolfe QC of Counsel.
- The consultation is expected to run during February 2020 leading to a decision in March or April.
- Under the Order, the lord chancellor has committed to a new decision “preceded by an open-minded, meaningful consultation of Legal Aid provider firms, costs lawyers and their representatives on which body should assess £2,500 to £25,000 Claims in future and what the process should entail, including review and appeal arrangements”.
- Pending the new decision, £2,500 and £25,000 civil claims since 17 August 2020 may be “(a) submitted to the Court or the LAA for assessment if they have yet to be submitted; and (b) submitted to the Court for a de novo assessment if they have already been assessed by the LAA and the firm is dissatisfied with that assessment.”

### **About the Law Society**

The Law Society is the independent professional body that works globally to support and represent solicitors, promoting the highest professional standards, the public interest and the rule of law.

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