

FOCUS

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A round up of some of the key articles in this issue

■ Eligibility Update

New eligibility limits for CLS and CDS work from 8 April 2002, including updated keycards, pages 6-11.

■ CLS Regulations and Code Changes

Enhanced rates of payment for members of the Law Society Family Panel Advanced and update on certificate embargoes during the "show cause" procedure. Also, changes to CDS mileage rates and payments for Panel membership, pages 14-15.

■ Quality Mark Update

Community
Legal Service



Criminal
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Information on the publication of the Specialist Quality Mark Standard and Guidance, SQM seminars, consultation on risk management, tolerance work and the CLS Directory and new CD-ROM, pages 12-13.

■ Immigration: New Stage Bill

Extension of the stage claiming arrangements following consultation, page 16.

■ Controlled Work: Cost Assessment

Changes to the General Civil Contract Specification from 2 April 2002 which affect the cost assessment process, and information on revised cost assessment guidance, page 15.

■ Developing Expertise in the Community Legal Service

Invitation to tender for the expansion of the LSC Methods of Delivery (Specialist Support) Pilot, page 5.

■ PIAP Reports

Latest reports from the Public Interest Advisory Panel, pages 18-23.

Consultation on Proposals for the Second Round of the Partnership Innovation Budget

Building on the success of the Partnership Innovation Budget (PIB) 2001 the LSC will be releasing a consultation paper at the end of April 2002 on the anticipated second round of funding through this initiative.

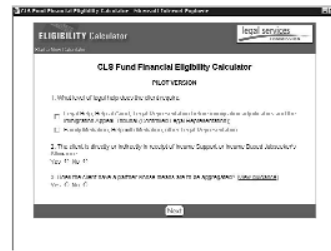
The purpose of the consultation is to set out the proposed focus areas for projects to be funded through the second round of the PIB. There will be a 12 week period of consultation from the date of the release of the paper. Responses to the consultation paper will be used to inform the final bidding guidance, which is due to be released in Autumn 2002, when details of the available funding will be finalised.

The Partnership Innovation Budget was originally announced by the Lord Chancellor in December 2000 as a key element of developing the Community Legal Service. Bids were invited for the first round in May 2001 for initiatives intended to improve the delivery of legal services. 75 projects have been approved for funding to date but there remains a small proportion (yet to be finalised) of the original budget unallocated.

Copies of the consultation paper will be sent to all existing CLSPs, to the Chief Executives of all local authorities in England and Wales, and to the major representative bodies in the advice sector and legal profession. If you are not covered by this list and would like to receive a copy of the consultation paper when it is released please contact Ash Patel on 020 7759 0495 or by e-mail at ashish.patel@legalservices.gov.uk. The paper will also be made available via the LSC's website: www.legal-services.gov.uk/devel/civil.htm.

CLS Fund Financial Eligibility Pilot Calculator

The Legal Services Commission is piloting a financial eligibility calculator (for CLS funded help) for use by LSC suppliers. It can be accessed from the LSC website at: www.legalservices.gov.uk/calculator/index.htm. It is due to be launched on 8 April 2002.



- Have you experienced any problems using the pilot?

To offer feedback or suggestions, please contact Michelle Sampson of the eCLS Policy Team:

E-mail (preferred): michelle.sampson@legalservices.gov.uk

Post: Michelle Sampson, Policy Assistant, eCLS Policy Team, Legal Services Commission, 12 Roger Street, London WC1N 2JL

Fax: 020 7759 1050

Phone: 020 7759 1022

We hope this will be a useful tool to aid the calculation process when determining eligibility for those levels of help where the supplier is responsible for assessment of means. The calculator can also be used to aid calculations when advising clients on potential eligibility for those levels of service where the Commission is the assessing authority. Suppliers can also print out the relevant pages of LSC forms CW1, CW2, CLS MEANS 6 and CLS MEANS 7 with the relevant means information already inserted. At the moment, the calculator does not work out contributions required from the client, but will indicate when contributions may be payable.

It is not intended to be a substitute for the detailed guidance published in Volume 2C of the LSC Manual.

On the basis of this pilot, we invite feedback from suppliers as to how the calculator could be better developed to meet their needs. Questions suppliers might want to consider include:

- Would this design/layout be appropriate for your use? Would you prefer the calculator to take a different form?
- What features might you want included/removed?
- How accurate do you find this prototype?
- Do you have any concerns about the calculator that you would want us to take on board?

Later this year, we hope also to develop a calculator that members of the public could use in the first instance to work out, before going to visit a supplier, whether they might be financially eligible for CLS funded help.

“Independent Lawyer”

This month a new magazine, *Independent Lawyer*, is being launched which is aimed exclusively at legal aid lawyers.

It will be edited by the legal journalist Fiona Bawdon (former editor of *Legal Aid News* and *Litigation Funding*) and aims to scrutinise issues affecting legal aid firms in an informed, objective way. The first issue will include a detailed look at the Public Defender Service.

Subscriptions are being discounted to £99 for the launch period (a reduction of 40% on the usual £165). To qualify for the discount (and to be kept up to date with launch details) you can register by contacting Fiona Bawdon by e-mail at fbawdon@bawdon-potter.demon.co.uk or phone 020 8211 0903.

New Telephone Advice Contracts

The Commission has now agreed contracts with ten organisations, which will be providing a full casework service by telephone in the following regions and categories of law. Eight of the organisations are new to the pilot, whilst Debt Advice Within Northumberland and Norwich Money Advice have won expansions of their existing pilot contracts. The pilot contracts that we have agreed so far cover the following regions and categories:

Region	Categories	Contractor
SOUTH/SOUTH EASTERN West & South Oxfordshire, Vale of White Horse	Welfare Benefits	French & Co (Solicitors)
WALES	Debt, Housing, Welfare Benefits	Ammanford and District CAB (NfP)
WEST MIDLANDS Birmingham, Sandwell & Dudley	Welfare Benefits	Birmingham Tribunal Unit (NfP) French & Co (Solicitors)
Shropshire, Staffordshire, Herefordshire, Worcestershire, Warwickshire	Education	French & Co (Solicitors) Children's Legal Centre (NfP)
	Employment	Stoke CAB (NfP)
NORTH EAST	Debt	Debt Advice Within Northumberland (NfP)
YORKSHIRE/HUMBERSIDE	Welfare Benefits	French & Co (Solicitors)
EAST MIDLANDS	Welfare Benefits	Derbyshire County Council (Derbyshire only) (Local authority) French & Co (Solicitors)
EASTERN Mid Suffolk	Debt	NMA Money Advice (NfP)
Hertfordshire	Debt	Stevenage CAB (NfP)
	Employment	Stevenage CAB (NfP)
NATIONWIDE	Housing (nationwide provision specialising in issues concerning travellers)	Community Law Partnership (Solicitors)

In addition, the Commission's contract with Sheffield CAB's Debt Support Unit will continue in 2002/03, providing debt advice in the Sheffield area. Also continuing are contracts with Preston and Western Lancashire Racial Equality Council (PREC) and DIAL Doncaster to provide both telephone advice and outreach services.

The first expansion contracts will commence in April 2002, and all will run initially for 12 months. Calls to the providers will be charged at local rate, and the telephone number of each organisation will be advertised in the regions that they serve. As well as providing coverage for areas where there is limited contracted provision, the pilot will help the Commission to develop contract terms that will enable telephone advice services to be integrated into the mainstream of publicly funded work. For more information about the Methods of Delivery telephone advice pilot, please contact Peter Jones, tel: 020 7759 0478 or e-mail peter.jones@legalservices.gov.uk.

Housing Possession Court Duty Scheme Pilot Update

The selection process for the Housing Possession Court Duty Scheme Pilot ended in November 2001. About 30 applications were received and of these 13 schemes were selected to take part, based in the County Courts serving the following areas: Birmingham, Brighton, Central London, Coventry, Hull, London Borough of Lambeth, Liverpool, Norwich, Nottingham, Portsmouth, Sheffield, Swansea and Tameside. They are a combination of single agency and multiple agency schemes, some of which were already in existence whilst others are completely new. The pilot schemes started between January and March 2002 and will initially run for a year from each start date.

The schemes enable representatives from the participating organisations to attend the rent and mortgage repossession hearings at the relevant courts and provide defendants with advice, and representation before the Court. In addition, schemes at Birmingham, Brighton and Swansea will also be able to provide advice to defendants attending hearings to stop eviction warrants. The service will not be means tested, however any further work done for the client will need to be funded in another way.

In order to assist the development of the pilot, feedback from the participants and the Courts will be collected as well as evaluation visits made to the schemes. A final review and evaluation of the schemes during the course of the first 12 months will then identify the preferred delivery options should the scheme be rolled out across the country.

Any queries or requests for further information about the Pilot should be directed to Marie Burton on 020 7759 1171 or Mary Burkinshaw on 020 7759 1172.

LSC Manual Update

The first of the three 2002 updates to the LSC Manual will be published in April 2002 as Release 6. Two more updates will follow in August and December.

A loose-leaf publication with an optional CD-ROM and an updating service allows the Commission to update the material in the Manual regularly. The four-volume Manual is designed to contain all the key documentation relating to both the CLS and the CDS. Sweet & Maxwell publish the LSC Manual and updates. If you require

details you should contact them on 020 7449 1111.

The Commission's key documentation is also available on our website at www.legalservices.gov.uk. In some cases our guidance is subject to immediate amendment, for example, if affected by a decision of the court. We post up to date material on our website and subsequently update our Manual in the next Release.

We shall continue to use both our website and *Focus* to ensure that suppliers are provided with details of all new materials for the CLS and the CDS (including consultation papers) as soon as possible.

Statutory Charge Statements

A project is currently underway to reintroduce annual statements of statutory charge liability for clients of the LSC or its predecessors. We are aiming to resume sending statements out to clients on a rolling basis, on the anniversary of first registration of the charge, from Summer 2002.

For further information please contact the project manager, Sarah Green at LSC Head Office, 85 Gray's Inn Road, London WC1X 8TX, e-mail sarah.green@legalservices.gov.uk.

New LSC Public Information Leaflets

New versions of the LSC public information leaflets have been produced to reflect the eligibility changes from 8 April 2002. Copies of the leaflets, and the legal information leaflets produced in association with the Consumers' Association are available on the LSC website www.legalservices.gov.uk and from the LSC Leaflet Line:

Tel: 0845 3000 343

Fax: 01732 860 270

E-mail: LSCLeafletline@direct.st-ives.co.uk

Post: LSC Leaflet Line, St Ives Direct, Enterprise way, Edenbridge, Kent TN8 6HF



ILPA Asylum Caseworker Training Project

The LSC is funding the Immigration Law Practitioners Association (ILPA) to run training courses for asylum caseworkers (see *Focus* 35, page 4 for more information).

The dates of the next courses have now been finalised as:

Nottingham - 22-26 April, 8-10 May

Manchester - 20-24 May, 19-21 June

Newcastle - 10-14 June, 8-10 July

Bristol - 27-28 June 1-3 & 17-19 July

If you are interested in attending a course or would like further information please contact Jane Savory at ILPA on 020 7250 3757 or e-mail actproject@ilpa.org.uk.

Developing Expertise in the CLS

The LSC is inviting applications from not-for-profit organisations, private solicitors firms and the Bar to join its Specialist Support Pilot Project. The aim of this pilot is to explore models for providing legal expertise, casework mentoring and training to CLS civil law suppliers.

Based on consultations with LSC regional offices we are particularly interested in applications from organisations that can provide specialist support in the following priority categories of law:

1. Organisations providing a NATIONAL service:

- ◆ Community Care ◆ Human Rights
- ◆ Mental Health ◆ Public Law

2. Organisations providing a REGIONAL service:

- ◆ Employment (East Midlands,

North West)

- ◆ Housing (Yorkshire and Humberside, East)
- ◆ Welfare Benefits (Yorkshire and Humberside, East Midlands, East)
- ◆ Debt (London, East Midlands)

All applicants must be able to demonstrate:

- ◆ Evidence of demand for a specialist support service
- ◆ Proven track record (3 years minimum) in relevant category of law
- ◆ Proven track record in a specialist support role (1 year minimum) and successful management of the service
- ◆ Quality assured service (able to meet CLS Quality Mark at Specialist Help level)

For an application package, including full selection criteria and timetable for the pilot, please contact Keetha Thanabalasingham, tel: 020 7759 0479 or e-mail keetha.thanabalasingham@legalservices.gov.uk. Applications close on 15 April 2002. Previous applicants are welcome to apply.

Since 2000, seven organisations have already participated in the first phase of this pilot. These specialist support services are still continuing and are available to **all CLS civil law suppliers** for advice, casework support and training. Their details are in the following chart.

There will also be specialist support services commencing in Wales in the early Summer. These will be in the areas of debt, housing and welfare benefits.

SPECIALIST SUPPORT SERVICES

Category of Law	Opening Times	Telephone Number	Organisation
Community Care	Tues 2pm–4.30pm Thurs 2pm–4.30pm	0121 246 9027	Tyndallwoods Solicitors
Employment	Mon–Thurs 10.30am–1pm, 2pm–4pm Weds and Fri 2pm–5pm	0808 808 3681 020 7415 6360	NACAB Specialist Support Unit Two Garden Court Chambers
Housing	Mon–Fri, 9am–5pm (closed alternate Weds 9am–12.30pm) Mon–Fri, 2pm–5pm	020 7505 4688 020 7415 6340	Shelter Two Garden Court Chambers
Human Rights	Mon and Weds 2pm–5pm, Tues and Thurs 10am–1pm	0808 808 4546	Liberty
Immigration	Mon–Fri, 10am–1pm Mon–Fri, 2pm–5pm	0845 602 1020 020 7415 6350	Joint Council for the Welfare of Immigrants Two Garden Court Chambers
Public Law	Mon and Weds 2pm–5pm, Tues and Thurs 10am–1pm	0808 808 4546	Public Law Project

Community Legal Service - Financial Eligibility April 2002

The Community Legal Service (Financial) (Amendment) Regulations 2002 provide for the following changes in financial eligibility limits. These changes will apply to all applications for funding made on or after 8 April 2002. The Commission will also apply these rates when it reassesses certificates under Regulation 15 of the Community Legal Service (Financial) Regulations 2000. This uprating represents a 1.7% increase. In addition to this uprating there are two further minor amendments to these regulations as discussed below.

Legal Help, Help at Court, Legal Representation before Immigration Adjudicators or Immigration Appeal Tribunal

Gross income limit	increased from £2000 to £2034 per month
Disposable income limit	increased from £601 per month to £611 per month
Capital limit	remains £3,000

Client's in receipt of Income Support or Income Based Job Seekers' Allowance will continue to be automatically eligible on income, but their capital will still need to be assessed.

These levels of service remain non-contributory. Clients are ineligible if their income or capital exceeds the above limits.

All other levels of service

Gross income limit	increased from £2000 to £2034 per month
Disposable income limit	increased from £683 per month to £695 per month
Capital limit	remains £8,000

Client's in receipt of Income Support or Income Based Job Seekers' Allowance will continue to be automatically eligible on both income and capital and their means will not need to be assessed.

There continues to be no contribution system for either Family Mediation or Help with Mediation.

For Legal Representation in Specified Family Proceedings, General Family Help, Support Funding and Full Legal Representation other than set out above a client with disposable income of **£263** or below per month and capital of £3,000 or below will not need to pay any contributions. A client with disposable income in excess of **£263** and up to **£695** per month will be liable to pay a monthly contribution of a proportion of the excess over **£259**. Such contributions will be assessed in accordance with the following bands

depending on the level of the assessed income.

Band	Monthly income	Monthly contribution
A	£264 to £386	1/4 of income in excess of £259
B	£387 to £513	£31.75 + 1/3 of income in excess of £386
C	£514 to £695	£74.08 + 1/2 of income in excess of £513

So if disposable income is £299 per month, the contribution will be in band A, the excess income is £40 and therefore the monthly contribution will be £10 per month.

If the disposable income was £401 per month, the contribution would be in band B, the excess income would be £15 (£401 - £386), and the monthly contribution would therefore be £36.75 i.e. £31.75 + £5.

If the disposable income was £533 per month, the contribution would be in band C, the excess income would be £20 (£533 - £513), and the monthly contribution would therefore be £84.08 i.e. £74.08 + £10.

A client whose disposable capital exceeds £3,000 is required to pay a contribution of either the capital exceeding that sum or the likely maximum costs of the funded service whichever is the lesser.

Dependants Allowances

Following increase to the Income Support (General) Regulations 1987 the following increases to the allowances for dependants will apply to applications for funding for all the above levels of service made on or after 8 April 2002.

Partner	increased from £131.25 to £133.40 per month
Child aged 15 or under	increased from £143.18 to £145.57 per month
Child aged 16 or over	increased from £146.65 to £149.04 per month

Other amendments

Regulation 19(f) has been amended to make it clear that **all** war pensions paid under the Naval, Military and Air Forces (Disability and Death) Service Pensions Order 1983 should be disregarded when calculating disposable income.

Regulation 3(1)(g) dealing with levels of service which shall be available without reference to means has been amended to include Legal Representation for the registration of a judgment under Council Regulation (EC) No 1347/2000 of 29 May 2000.

Community Legal Service

KEYCARD NO 35 - Issued April 2002

General

This card is intended as a quick reference point only when assessing financial eligibility for those levels of service for which the supplier has responsibility: Legal Help; Help at Court; Legal Representation before Immigration Adjudicators and the Immigration Appeal Tribunal; Family Mediation; Help with Mediation, and Legal Representation in respect of Specified Family Proceedings before a Magistrates' Court (other than proceedings under the Children Act 1989 or Part IV of the Family Law Act 1996). Full guidance on the assessment of means is set out in Part C of Volume 2 of the Legal Services Commission Manual. References in this card to volume and section numbers e.g. volume 2C-section 1 are references to the relevant parts of that guidance. Suppliers should have regard to the general provisions set out in guidance volume 2C-section 2, particularly those set out in sub paragraphs 3-5 regarding the documentation required when assessing means. This keycard and the guidance are relevant to all applications for funding made on or after 8 April 2002.

Eligibility Limits

The summary of the main eligibility limits from 8 April 2002 are provided below:

Level of Service	Income Limit	Capital Limit**
Legal Help, Help at Court and Legal Representation before the Immigration Adjudicators and the Immigration Appeal Tribunal	Gross income not to exceed £2034 per month Disposable income not to exceed £611 per month Passported if in receipt of Income Support or Income Based Job Seekers' Allowance	£3000 No passporting - capital must be assessed in all cases
Family Mediation, Help with Mediation and *Legal Representation in Specified Family Proceedings i.e. Family proceedings before a magistrates' court other than proceedings under the Children Act 1989 or part IV of the Family Law Act 1996	Gross income not to exceed £2034 per month Disposable income not to exceed £695 per month Passported if in receipt of Income Support or Income Based Job Seekers' Allowance	£8000 Passported if in receipt of Income Support or Income Based Job Seekers' Allowance

* May be subject to contribution from income and/or capital (see volume 2C-section 3 paras 9 to 13)

** The capital limit is a single limit as there are no longer additional capital limits based on number of dependants.

Additional information regarding the financial eligibility criteria is also provided in guidance volume 2C-section 3

STEP BY STEP GUIDE TO ASSESSMENT

Step One Determine whether or not the client has a partner whose means should be aggregated for the purposes of the assessment (see guidance in volume 2C-section 4 paras 2-6).

Step Two Determine whether the client is directly or indirectly in receipt of either Income Support or Income Based Job Seekers' Allowance in order to determine whether the client automatically satisfies the relevant financial eligibility test as indicated by the 'passported' arrangements stated in the table on reverse.

Step Three For any cases which are not 'passported' determine the gross income of the client, including the income of any partner (see guidance in volume 2C-section 5). Where that gross income is assessed as being above £2,034 per month, then the client is ineligible for funding for all levels of service and the application should be refused without any further calculations being performed.

Step Four For those clients whose gross income is £2,034 per month or less calculate the client's disposable income (see guidance in volume 2C-section 6). Fixed allowances are made for dependants and employment expenses and these are set out in the table below. Other allowances can be made for: tax; national insurance; maintenance paid; housing costs and childminding. Certain sources of income can be disregarded. If the resulting disposable income is above the relevant limit then funding should be refused across all levels of service without any further calculations being necessary.

Fixed rate allowances (per month) from 8 April 2002

Work related expenses for those receiving a wage or salary		£45
Dependants allowances	Partner	£133.40
	Child aged 15 or under	£145.57
	Child aged 16 or over	£149.04
Housing cap for those without dependants		£545

Step Five Where a client's disposable income is below the relevant limit then it is necessary to calculate the client's disposable capital (see guidance in volume 2C-section 7). If the resulting capital is above the relevant limit, then the application should be refused (however, in the case of Legal Representation in Specified Family Proceedings if the likely costs of the case are more than £5,000 then refer to Commission which may grant – see volume 2C-section 3 para 5).

Step Six For those clients whose disposable income and disposable capital have been assessed below the relevant limits then for all levels of service other than Legal Representation in Specified Family Proceedings, the client can be awarded funding.

Step Seven For Legal Representation in Specified Family Proceedings, it is necessary to determine whether any contributions from either income or capital (or both) should be paid by the client (see guidance in volume 2C-section 3 paras 9 to 13). For ease of reference the relevant income contribution table is reproduced below. Such contributions should be collected by the supplier (see guidance in volume 2C-section 3 para 12).

Band	Monthly Disposable Income	Monthly Contribution
A	£264 to £386	1/4 of income in excess of £259
B	£387 to £513	£31.75 + 1/3 of income in excess of £386
C	£514 to £695	£74.08 + 1/2 of income in excess of £513

Criminal Defence Service

KEYCARD NO 35a - Issued April 2002

General

This card is intended as a quick reference point only when assessing financial eligibility for Advice and Assistance and Advocacy Assistance. Full guidance on the assessment of means is set out in Part E of Volume 4 of the Legal Services Commission Manual. References in this card to volume and section numbers e.g. volume 4E-section 1 are references to the relevant parts of that guidance. Suppliers should have regard to the general provisions set out in guidance volume 4E-section 3, particularly those set out in sub paragraph 2 regarding the documentation required when assessing means. This keycard and the guidance are relevant to all applications for funding made on or after 8 April 2002.

Eligibility Limits

The summary of the main eligibility limits from 8 April 2002 are provided below:

Level of Service	Income Limit	Capital Limit
Advice and Assistance	<p>Disposable income not to exceed £89 per week</p> <p>Passported if in receipt of Income Support, Income Based Job Seekers' Allowance, Working Families Tax Credit* or Disabled Person's Tax Credit*</p> <p><i>* Only if the amount (if any) to be deducted from the maximum tax credit as a result of other income has been determined at not more than £70 per week</i></p>	<p>£1000 for those with no dependants</p> <p>£1335 for those with one dependant</p> <p>£1535 for those with two dependants with £100 increase for each extra dependant</p> <p>No passporting - capital must be assessed in all cases</p>
Advocacy Assistance	<p>Disposable income not to exceed £189 per week</p> <p>Passported if in receipt of Income Support, Income Based Job Seekers' Allowance, Working Families Tax Credit* or Disabled Person's Tax Credit*</p> <p><i>* Only if the amount (if any) to be deducted from the maximum tax credit as a result of other income has been determined at not more than £70 per week</i></p>	<p>£3000 for those with no dependants</p> <p>£3335 for those with one dependant</p> <p>£3535 for those with two dependants with £100 increase for each extra dependant</p> <p>Passported if in receipt of Income Support or Income Based Job Seekers' Allowance</p>

STEP BY STEP GUIDE TO ASSESSMENT

Step One Determine whether or not the client has a partner whose means should be aggregated for the purposes of the assessment (see guidance in volume 4E-section 4).

Step Two Determine whether the client is directly or indirectly in receipt of either Income Support, Income Based Job Seekers' Allowance, Working Families Tax Credit* or Disabled Person's Tax Credit* in order to determine whether the client automatically satisfies the relevant financial eligibility test as indicated by the 'passported' arrangements stated in the table on reverse.

** only if the amount (if any) to be deducted from the maximum tax credit as a result of other income the client receives has been determined at not more than £70 per week.*

Step Three For any cases that are not 'passported' determine the client's disposable income (see guidance in volume 4E-section 5). Fixed allowances are made for dependants and these are set out in the table below. Other allowances can be made for: tax; national insurance and maintenance paid. Certain sources of income can be disregarded. If the resulting disposable income is above the relevant limit then funding should be refused across all levels of service without any further calculations being necessary.

Fixed rate allowances (per week) from 8 April 2002

Dependants allowances	Partner	£30.70
	Child aged 15 or under	£33.50
	Child aged 16 or over	£34.30

Step Four Where a client's disposable income is below the relevant limit then it is necessary to calculate the client's disposable capital (see guidance in volume 4E-section 6). If the resulting capital is above the relevant limit, then the application should be refused.

Step Five For those clients whose disposable income and disposable capital have been assessed below the relevant limits then for all levels of service the client can be awarded funding.

Quality Mark Presentation and Seminar in Peterborough

Six successful agencies assembled to receive their Quality Mark awards at a presentation ceremony at Peterborough's Gildenburg Art Gallery in January. The event also brought together local solicitors to hear more about the audit process under the Quality Mark, and the contribution they could make to the development of the local Community Legal Service Partnership.

The variety of the advice-giving organisations successfully securing the Quality Mark attracted local radio and newspaper coverage. Age Concern Peterborough, Peterborough Racial Equality Council, Gladstone District Community Association, Peterborough Trading Standards, the Peterborough branch of the Princess Royal Trust for Carers and Fenland & Peterborough MIND all recently completed the audit

process to be able to deliver general level help in a range of legal categories.

Two morning workshops were run amid the modern sculptures and paintings of the art gallery, focussing on the "seamless service" aspects of the Quality Mark. This section aims to ensure that individuals receive the right service at the earliest opportunity, and depends on legal providers operating a

Criminal Defence Service

- Financial Eligibility April 2002

The Criminal Defence Service (General) (Amendment No 2) Regulations 2002 provide for the following changes in financial eligibility limits. These changes will apply to all applications for funding made on or after 8 April 2002. This uprating represents a 1.7% increase in line with welfare benefit provision.

Advice and Assistance

Disposable Income limit	increased from £87 per week to £89 per week
Capital Limit	remains £1,000 for those with no dependants remains £1,335 for those with one dependant remains £1,535 for those with two dependants with £100 increase for each extra dependant

Client's in receipt of Income Support, Income Based Job Seekers' Allowance, Working Families Tax Credit* or Disabled Person's Tax Credit* will continue to be automatically eligible on income, but their capital will still need to be assessed.

** only if the amount (if any) to be deducted from the maximum tax credit as a result of other income the client receives has been determined at not more than £70 per week.*

This level of service remains non-contributory. Clients are ineligible if their income or capital exceeds the above limits.

Advocacy Assistance

Disposable Income limit	increased from £186 per week to £189 per week
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Capital Limit	remains £3,000 for those with no dependants remains £3,335 for those with one dependant remains £3,535 for those with two dependants with £100 increase for each extra dependant
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Client's in receipt of Working Families Tax Credit* or Disabled Person's Tax Credit* will continue to be automatically eligible on income, but their capital will still need to be assessed.

** only if the amount (if any) to be deducted from the maximum tax credit as a result of other income the client receives has been determined at not more than £70 per week.*

Clients in receipt of Income Support, Income Based Job Seekers' Allowance will continue to be automatically eligible on income and capital.

This level of service remains non-contributory. Clients are ineligible if their income or capital exceeds the above limits.

Dependants Allowances

Following an increase to the Income Support (General) Regulations 1987 the following increases to the allowances for dependants will apply to applications for funding for all the above levels of service made on or after 8 April 2002.

Partner	increased from £30.20 to £30.70 per week
Child aged 15 or under	increased from £32.95 to £33.50 per week
Child aged 16 or over	increased from £33.75 to £34.30 per week

robust referral and active signposting system.

People who attended the event said it demonstrated how important it was for the various parts of the Community Legal Service to get to know and build understanding of each other, which would in turn inspire confidence among service users and the general public.

(right - Representatives from the successful organisations with their QM Certificates)



Specialist Quality Mark - Publication of the Standard and Guidance

All Specialist Quality Mark (SQM) holders (formerly franchisees) should have received their copies of the SQM Standard and SQM Guidance by 1 March. If you have not received yours, or if you would like additional copies, please contact your local regional office. Subscribers to the LSC Manual will also receive a copy of the SQM Standard as part of Release 6 (April 2002) of the Manual.

The SQM Standard replaces its predecessor, the Legal Aid Franchise Quality Assurance Standard (LAFQAS), from 30 April 2002, and you should take some time to acquaint yourself with the changes that it introduces, particularly as many are made to simplify or clarify what is required, and to reduce the need for documented procedures wherever possible.

Details of key changes made following

consultation were outlined in the three-page summary that was sent to you with the Standard and Guidance. A summary of changes from LAFQAS, categorised into three separate lists, has also been produced, and the lists can be found in Appendix 3 of the Standard.

Amended requirements (as listed in Appendix 3) of the Standard will be implemented as follows:

Requirements	Existing SQM holders	New SQM applicants
List 1 (simplified or removed requirements)	Requirements are simplified or removed immediately	Requirements are simplified or removed immediately
List 2 (newly clarified requirements)	Clarified requirements must be met from October 2002*	Clarified requirements must be met from 30 April 2002
List 3 (new requirements)	Requirements must be met from October 2002	Requirements must be met from October 2002

* Observations will be noted at audits between April and October where processes or procedures do not meet any of the clarifications in list 2.

Consultation on New Risk Management Requirements in the Specialist Quality Mark (SQM)

Amongst responses to the SQM consultation exercise last year some members of the profession suggested we introduce additional specific risk management requirements into the SQM. As well as offering improvements in quality of service delivered, a key argument in favour of this proposal was the very real potential for many organisations to use their SQM status to negotiate lower indemnity insurance premiums (or at least to avoid increases).

The LSC is now consulting on the proposed requirements until 31 May 2002, and these can be found in your copy of the SQM Standard (see G5). A consultation paper, containing background issues and guidance associated with the proposed require-

ments can be found in your copy of the SQM Guidance (again see G5).

As it stands, the SQM contains almost all of the elements of a risk management system, except for the appointment of a risk manager, the identification of operational risks that are relevant to you, and a process for dealing with risks outside the norm. These additions are required to enhance the SQM as an effective risk management tool.

Quality Mark Director Peter Watson says: "The aim of the Quality Mark is to ensure that each service has high standards of management and client care. Risk cannot be eliminated entirely, but since approximately 90% of professional negligence claims relate

to procedural problems, i.e. failures other than poor legal advice, improved management control should lead directly to fewer claims. The additional proposed requirements in the SQM are designed to reduce exposure to risk, which in turn will reduce client dissatisfaction and the number of claims made against the organisation, hence more favourable insurance premiums."

Consultation responses should be sent, by 31 May 2002, to Peter Watson, Supplier Development Group, 85 Gray's Inn Road, London, WC1X 8TX, or by e-mail to qualitymark@legalservices.gov.uk. For more information, please see the consultation paper, starting on page 112, in the SQM Guidance document.

Specialist Quality Mark Seminars - Making the Transition from the Legal Aid Franchise Quality Assurance Standard (LAFQAS) to the SQM

To support the launch on 30 April 2002 of the Specialist Quality Mark (SQM), the Legal Services Commission, supported by members of the SQM working group (including representatives from organisations such as the Legal Aid Practitioners Group, Advice Services Alliance and The Law Society), is hosting a series of afternoon seminars throughout England and Wales. Details of the dates and venues are given below and were sent to all SQM holders in mid-February.

If you missed the deadline of 1 March for applying for a place at one of the seminars, but would like to find out whether places are still available, or to add your name to the cancellation list, please contact Heather Rawlings on 020 7759 0081. Alternatively you can e-mail the relevant information to qualitymark@legalservices.gov.uk.

As well as providing information on location and date, it is important that you also identify which session type (A or B) you would like to attend, and whether or not you intend to join the workshop. Type A sessions have been designed for those who attended the pre-consultation SQM seminars last summer, and will concentrate on post-consultation changes and changes from LAFQAS. Running concurrently will be type B sessions, designed for those who did not attend one of our previous seminars. These will cover all of the information in type A sessions, as well as the structure of the Quality Mark and your organisation's place in the Community Legal Service. Finally, there is an option, regardless of session type selected, to join a workshop for the final hour, to discuss some of the requirements in more detail with local auditors.

Location	Date (2002)	Location	Date (2002)
London	19 March	Birmingham	23 April
Brighton	21 March	Nottingham	25 April
Newcastle	26 March	London	30 April
Leeds	28 March	Reading	2 May
Cardiff	3 April	Plymouth	8 May
Bristol	5 April	Southampton	10 May
Manchester	16 April	Norwich	14 May
Liverpool	18 April	Cambridge	16 May

The CLS Directory 2002 and the New Directory CD-ROM

The fourth edition of the Community Legal Service Directory is to be published in April 2002, and will be sent to all organisations that have applied for, or obtained, the Quality Mark. It will also be available at all libraries, county courts, police constabularies, MPs' constituency offices, prisons and Citizens Advice Bureaux. Copies of the new CD-ROM Directories will be sent to those organisations that requested them.

The new CD-ROM features printable details of organisations, search facilities, and PDF copies of all legal information leaflets produced by the LSC in association with the Consumers' Association. These leaflets are also available at www.legalservices.gov.uk. The CD-ROM also features a searchable version of the CLS Leaflet Directory.

The fourth edition of the Directory will only contain the details of organisations who have applied for, or obtained, the Quality Mark, and will provide details of those organisations which, as well as offering a face-to-face service, offer a telephone service or an outreach service.

If you need any further information on the CLS Directory or the CLS Directory on CD-ROM, please contact Nikki Duru on 020 7759 0381/0389.

Tolerance Work - Guidance in the Specialist Quality Mark

The Legal Services Commission would like to thank all organisations that recently took part in the survey regarding the use of tolerances under General Civil and Not-for-Profit contracts. The survey was part of an independent study commissioned by the LSC that is being carried out by the Institute of Advanced Legal

Studies to research the use of tolerance work under contracts. The study aims to increase understanding of the type of work performed under tolerance, the reasons why tolerance is being used, geographical differences in terms of usage, and the quality of work performed under tolerance.

The results of the study will be published during the summer. However, from the survey findings recently analysed, it is already clear that

contract holders would appreciate more guidance on how the SQM (and formerly LAFQAS) applies to work performed under tolerance. With the recent publication of the SQM Standard, we have, therefore, taken the opportunity to add guidance on how organisations might meet the requirements for supervision, file review and individual competence for any tolerance work done. You can find this guidance in Appendix 4D (pages 274-275) of the SQM Standard.

CLS Regulation and Code Changes for April 2002

Apart from increases in financial eligibility limits, only minor amendments are being made to the regulatory framework of the CLS this April. Details of all the eligibility changes are set out on pages 6-11. Other changes are set out below.

Law Society Family Law Panel Advanced – Enhanced Rates of Payment

With effect from 8 April 2002 the Legal Aid in Family Proceedings (Remuneration) Regulations 1991 are being amended to provide for a guaranteed enhancement of remuneration for work done by members of the Law Society Family Law Panel Advanced. This puts that panel on a par with the Solicitors' Family Law Association Accredited Specialist Panel and the Law Society Children Act Panel. This change is introduced by the Legal Aid in Family Proceedings (Remuneration) (Amendment) Regulations 2002 (SI No. 710)

Certificate Embargoes during the "Show Cause" Procedure

In *Focus 37*, at page 2, we reported that following the case of *Machi v LSC*, 20 December 2001, we had changed the standard wording on our "show cause" letters so as not to impose a strict embargo on further work, but we were discussing with the Lord Chancellor's Department new regulations to restore our power to impose embargoes. These regulations have been made with effect from 8 April 2002.

The Civil Legal Aid (General) Regulations 1989 are being amended to provide that where a "show cause" letter has been served under Regulation 81(1)(a), "no further work may be done or steps taken under the certificate unless authorised by the regional director". This regulation change restores our power to impose embargoes. As a result from 8 April 2002 our standard "show cause" letters will contain an embargo on further work in similar form to that which applied prior to the *Machi* case.

When an embargo is imposed we do of course retain a discretion to authorise work under an embargoed certificate. We have consulted on and prepared guidance on how we will exercise this discretion which will be inserted at the end of Section 22.2 of the Code guidance on Procedures and is set out below. The guidance explains that we will adopt a flexible approach and will in some circumstances be prepared to fund representation at urgent hearings where there has been no time to complete the show cause or appeal procedure.

Regulation 51 of the Civil Legal Aid (General) Regulations 1989 has also been amended to make it clear that we have a general discretion to amend, impose or remove limitations and conditions on certificates. The changes are in the Civil Legal Aid (General) (Amendment) Regulations 2002 (SI No. 711).

Code Procedure Amendment

Although the *Machi* case concerned our powers in relation to certificates issued under the Legal Aid Act 1988, we have for the avoidance of doubt also made a minor amendment to the Code Procedures for 1999 Act certificates. An extra paragraph has been added to Rule C55 to provide that where the "show cause" notice is served, no further work may be done or steps taken under the certificate unless authorised by the regional director. No other changes are being made to the Code Criteria or Procedures at this stage. Details of all regulation and Code changes will be contained in the next update to our Manual in April 2002 and on the website.

Other Changes

The Lord Chancellor has announced that mileage rates payable under the CDS contract are to be enhanced from 36p to 45p per mile from 1 April 2002. A contract amendment will be issued but contract holders may claim at the higher rate for all travel on or after 1 April. The Lord Chancellor has also decided that the Commission will pay by way of Grant fees for accreditation and reaccreditation to Panels. Details of which Panels and how to claim will be publicised by the Commission shortly. In addition the Commission has been invited by the Lord Chancellor to consult on how it might fund training contracts and attendance on the Legal Practice Course by way of Grant. The consultation paper will be published by the end of April.

Embargoes Pending Withdrawal of Funding

82. When a "show cause" letter is issued stating that we are considering discharging or revoking a certificate the letter will generally contain an embargo stating that no further work may be carried out under the certificate without the prior approval of the regional office. This form of

embargo does not prohibit the solicitor doing necessary work in responding to the show cause letter, but obtaining counsel's opinion or gathering any further evidence is not permitted without the prior approval of the office. For certificates issued under the Legal Aid Act 1988 the embargo is issued under Regulation 81 of the Civil Legal Aid (General) Regulations 1989, as amended and for certificates issued under the

Funding Code the embargo operates under Rule C55.3 of the Funding Code Procedures. These provisions, which apply from April 2002, were introduced in response to the Court of Appeal decision of *Machi v LSC*, 20 December 2001.

83. When an embargo has been imposed, application may be made by letter, fax or telephone to the regional office for authority to

carry out further work. As a general rule authority will only be given if it is urgent for further work to be carried out to protect the client's position. The regional office is unlikely to grant authority if it considers that rather than authorising work the client's position can be protected by arranging for a shortened show cause period and expediting any appeal against discharge or revocation to the funding review committee.

84. There will however be some

cases where a hearing is imminent and there is no time to complete the show cause or appeal procedure. This typically arises where a settlement offer is made just before trial or new information such as a counsel's opinion on the merits has just come to light. In those circumstances we will generally authorise only a written or oral application to adjourn the hearing. However the office will consider arguments for substantive funding of the hearing and will take into account the interests of the client, the likelihood of funding

ultimately being continued, the length of the hearing and the risk to the fund. We are more likely to agree to fund the hearing if it is listed for no more than two days, if there is a real prospect of funding ultimately being approved on the merits by the regional office or funding review committee, or where the risk to the fund of continuing is small (for example because the risk of proceeding with the hearing relates only to costs and the fund is likely to be protected through the operation of the statutory charge).

Controlled Work: Cost Assessment

Two changes to the General Civil Contract Specification will affect the cost assessment process from 2 April 2002. These changes were consulted upon as part of our November 2001 paper on 'General Civil Contracts from April 2002' (see our website at www.legalservices.gov.uk) and are:

1. An amendment to Rule 2.14 to place a positive contractual duty on suppliers to only claim for work that has been reasonably done and is supported by evidence on the file.
2. Changes to Rule 2.16 to give both the supplier and the regional office the formal right to appear or be represented before the costs committee, and to allow the committee to give directions.

Notice of these changes was sent out to suppliers with their contract schedules for 2002-3.

For an overview of the cost compliance process and the three categories of results, see *Focus 36* at page 29.

Our consultation on the cost assessment guidance itself closed on 8 February 2002. Twenty-two responses were received including from the Law Society, ILPA and LAPG. The finalised version will be issued to suppliers in April 2002 and will take

effect as part of the General Civil Contract Specification six weeks later. The guidance is unlikely to differ significantly from the previous version of the guidance issued to contract holders in October 2001 or depart from its general principles. However, the new version will contain a number of clarifications, examples and exceptions arising out of the consultation and it is hoped that practitioners will find the changes helpful.

We intend to provide training on the cost compliance guidance to members of our cost committees in the near future. If you sit as a member of the Review Panel dealing with cost issues, then please contact your regional office for details.

As part of our programme to improve the cost assessment process, the London Regional Office has introduced a peer review system for immigration case files. A number of leading immigration lawyers, including Jane Coker, David Burgess, Gooch Heer, Jawaid Luqmani, Sajid Sheikh and Alison Stanley, are now working on a consultancy basis with the Legal Services Commission to ensure that the consistency of cost assessment is maintained, and that both value for money and the quality of work on the files is also reviewed. This has enabled the LSC to work with a number of

suppliers to identify where additional training for their firms would be beneficial. In the longer term, this information will also be used to inform the direction of future ILPA training courses.

Whilst one purpose of the cost assessment process is to improve the standard of claims submitted by suppliers, it has also highlighted that there are a limited number of organisations where direct action in terms of recoupment of payments made is appropriate. To date, this process has reduced claims from a small group of suppliers by a total of around £1.4m. All such reductions have been achieved by agreement with the firms concerned.

One of the criticisms of the process to date has been the delay in the return of supplier's files. A time standard of 4 weeks from date of receipt of the full file sample has now been implemented in all regional offices. Firms are reminded that the audit cannot be completed without the receipt of the full sample as requested, and ensuring that a full sample is sent will accelerate the processing time. Firms are also reminded that where files are held by the LSC and needed urgently, they can be returned prior to the completion of the audit. Please contact your Account Manager should this situation arise.

Immigration: New Stage Bill

The Commission has now agreed to extend the stage claiming arrangements. This follows a consultation paper issued in June 2001 (see *Focus 35*, page 19). The aim is to allow practitioners to improve their cash flow by billing more of their ongoing cases. We are pleased to be able to respond positively to the arguments put forward by the Law Society, ILPA, LAPG and others on this issue, and trust that suppliers will welcome the new arrangements.

1. A new stage (c) will be added to existing stage claims (a) and (b). This new stage will allow suppliers to bill the case at any point where at least six months has passed **and** at least £500 (including profit costs and disbursements but not VAT on profit costs) has been incurred since the start of the case, or since the last stage claim, if one has already been made. A stage (c) claim can therefore be submitted more than once in the case provided at least six months has elapsed since the last claim and that the costs threshold is met.

However stage (c) will not be available to all practitioners. There are a minority of practitioners whose cost assessment results mean that we have significant concerns about the amounts that they have already claimed from the fund. We shall be writing to practitioners to inform them of their

individual position. The majority of practitioners, primarily those who have been categorised as 1 or 2 in this year's cost assessment audits, will be authorised to take advantage of the new stage. Those firms that are currently in category 3 'unacceptable' (see *Focus 36*, pages 29-30) will not, although they will continue to be able to take advantage of stages (a) and (b). If their categorisation changes, either as a result of a cost appeal or of a further sample, then we will of course review the position on request.

2. The stage billing arrangements will be extended to cover all immigration, not just asylum and human rights cases. This means that non-asylum matters can be billed at stage (b) (adjudicator's decision) or (c) (provided the firm is authorised to use that stage). Stage (a), the date of completion of asylum application, remains relevant only in asylum cases.
3. Our aim in reconciling the General Civil Contract payments, including those for immigration suppliers, is by 31 March 2003 to have paid each supplier the amount they have billed plus the 'one-month' pull forward. This will equate to reconciling assessed bills to 97.5% of payments over the whole life of a 39-month contract. Although stage claiming remains voluntary, practitioners are strongly urged to

adopt it in order to ease the process of reconciliation for their firm. We will take the fact that firms could have submitted stage claims into account when carrying out that process.

4. As proposed in our June 2001 consultation paper, in the light of the stage claiming arrangements, the payment on account arrangements for asylum no longer apply.

Notice of the contract changes is being sent out. The changes will be formally incorporated into the contract six weeks after receipt of the notice. However those firms to whom the new stage claim will apply will be able to include claims in the Consolidated Matter Report Form (CMRF) due at the end of April should they wish to do so. Guidance will be provided on how to complete the CMRF for the new stage. It is important that firms use the same file reference throughout a particular case, so that stages can be properly linked.

Practitioners are reminded that stage claims should include all costs up to the particular stage, or if a stage claim has been previously submitted, all costs since that last stage claim. If exceptionally, costs are omitted from a stage claim and claimed for subsequently, then there should be a note on the file specifying the amount and the reason for the omission. Of course, the same costs should never be claimed for twice.

General Civil Contracts from 1 April 2002 (Solicitors)

In November 2001, the LSC published a consultation paper proposing changes to the General Civil Contract (Solicitors) to apply from 1 April 2002, and also setting out our proposals for contract schedules in the third year of contracting.

Consultation ran until 25 January 2002, and responses were received from a variety of organisations including

representative bodies and practitioners. A post consultation summary and report has been produced by the LSC, and is available on the LSC website. Copies have also been sent to all contracted suppliers. Key points from the summary are set out below:

Separate budget for asylum

A separate budget will be held for

asylum, which will be monitored separately from other Civil Controlled Work. No move will be made to separate out asylum from non-asylum immigration as Quality Mark categories without further consultation.

Change in approach to tolerances

The approach currently used to prescribe tolerance work in family

contracts will be extended to contracts in all civil categories from 1 April 2002. This means that matter starts allocated for tolerance work will be identified separately from those allocated for category specific work in contract schedules. Work allocated to category specific contracts should not be performed within a tolerance.

Basis for calculating new matter starts

New schedules have been sent to all contracted suppliers. The number of new matter starts awarded is based upon the number of matters actually started between 1 April 2001 and the end of November 2001, extrapolated to provide a figure for the full year from 1 April 2002. By way of exception (subject always to the 80% guarantee), in some cases the number of matter starts awarded may have been reduced where we consider it necessary to do so to reallocate resources to meet other priorities, or in those few cases where there are significant concerns about the quality of work or over claiming arising out of the contract compliance audit (including the costs assessment process). Where this has been considered necessary, suppliers are able to make representations to the LSC regional office before the new schedule comes into effect on 1 April 2002.

Uplifts to reflect civil eligibility changes

The number of matter starts allocated to schedules has been increased by 10% in all categories except mental health and immigration asylum work, where it is anticipated that a high proportion of clients will already qualify.

Increases of matter starts within year

It will be open to suppliers to request increases in matter starts within year as usual. Requests will be considered in accordance with the approach outlined in the consultation paper. Requests should be made in advance of any limit being breached, as we will not pay for unauthorised matter starts. Suppliers should not use their additional tolerance to carry out work

in a category where they have a specific contract, but should seek an increase in their allocation for the specific category if they are running out of matter starts.

Awarding new contracts

In deciding whether to award new controlled work contracts (or new categories to offices which already have contracts) we will take into account the factors identified in the consultation paper, which include the Lord Chancellor's Directions and the advice of Regional Legal Services Committees and CLS Partnerships. New controlled work contracts will generally be awarded for immigration asylum, mental health, community care, education, public law, and actions against the police etc. We will also generally award new contracts where required to meet a need for legal services in the welfare benefits, housing, debt, employment and consumer categories. Applications for contracts in the family category will be considered individually on their merits, but we will be unlikely to award new contracts where there is already a sufficiently large and well-developed supplier base.

We may refuse applications for new matter starts, or contracts even in the categories of high priority need on the basis of quality or performance. We intend to issue further guidance on the circumstances in which we will do so.

Calculating the Schedule Payment Limit

Our aim in setting Schedule Payment Limits for the third year of the General Civil Contract is to ensure that by 31 March 2003, we will have paid each supplier an amount equal to the amount they have billed since the beginning of the contract, plus the one month pull forward of costs first announced in April 2000 (see *Focus* 30, page 1).

Most contracts commenced in January 2000, and will therefore have lasted for 39 months by 31 March 2003. The amount of the pull forward will therefore be 1/39th of the total claims over that period, or 2.56%. This means that we

will aim to pay each supplier 102.56% of their claims over the whole period of the contract. To put it the other way round, we will aim to ensure that each supplier's contract is reconciled so that their claims amount to 97.5% of their payments over that period.

Where a contract started more recently than January 2000, we will apply the same principles but the value of the pull forward in percentage terms will of course differ according to the length of the contract.

A 5% increase has been added to each supplier's Schedule Payment Limit (save for contracts in immigration asylum and mental health) to reflect the increased claims that may follow from the rise in the eligibility limits introduced from 3 December 2001. This is less than the 10% of extra matter starts awarded for the same purpose because only a proportion of new cases will be billed within year.

For new contracts awarded on or after 1 April 2002, we will base the Schedule Payment Limit on the amount we expect the supplier to claim in the Schedule period, together with the one-month pull forward.

This approach will be taken in all categories of law. However, changes are to be introduced to stage billing in the Immigration category in order to improve suppliers' cash flow - please see the separate article on this on page 16 of this edition of *Focus*.

Amendments to the GCC Specification and SQM category and guidance

From 1 April 2002 suppliers with a housing contract will be permitted to represent tenants or their family members residing with them in proceedings for an anti-social behaviour order sought by a local authority where this is likely to lead to possession proceedings.

Amendments have also been introduced to facilitate the costs assessment process and the work of the Costs Committee. Please see the separate article on this on page 15 of this edition of *Focus*.

General Civil Contracts from 1 April 2002 (Not for Profit)

In November 2001, the LSC published a consultation paper proposing changes to the General Civil Contract (NfP) to apply from 1 April 2002.

Consultation ran until 25 January 2002, and responses were received from a variety of organisations including representative bodies and practitioners. A post consultation summary and report has been produced by the LSC, and is available on the LSC website. Copies have also been sent to all NfP contracted suppliers. Key points from the summary are set out below:

Anti-Social Behaviour Orders

From 1 April 2002 suppliers with a housing contract will be permitted to represent tenants or their family members residing with them in proceedings for an anti-social

behaviour order sought by a local authority where this is likely to lead to possession proceedings, provided they have rights of audience.

Disbursements

- Quarterly payments already include an allowance for disbursements “up front” (instead of paying these individually in arrears). This is estimated by looking at the amounts claimed over the current schedule.
- Adjustments to the allowance in-year may be made if the expected value of the disbursements is not being incurred, or is projected to be exceeded, and we will provide for reconciliation at the end of the year. The quarterly report will be amended to enable monitoring.
- The prior authority limit will be

raised from £50 to £250 so that individual disbursements up to this amount may be incurred without prior authority.

- The total disbursement limit of £1000, beyond which suppliers must obtain prior authority for each disbursement, has been retained. However Regional Offices will have the discretion to adjust both the £250 and £1000 limits on application on a supplier-by-supplier basis to cater for the actual profile of work provided if satisfied by the supplier’s management of disbursements.
- Suppliers will be required to maintain a central running record of disbursements showing date, case, purpose and amount (with copies of any prior authorities) for audit purposes and reconciliation.

Public Interest Advisory Panel Reports

The Public Interest Advisory Panel reports to the Commission on cases which are alleged to raise public interest issues. These reports are then taken into account by the Commission in decisions under the Funding Code. For more information on the Panel see the article in *Focus 31* (page 2) and Section 5 of the Funding Code Decision-Making Guidance in Volume 3 of the LSC Manual and on the website at www.legalservices.gov.uk.

Where an application for funding relies on alleged public interest it is important that the nature of the potential benefits to the public are made clear on the application form. The Commission’s guidance on public interest should be taken into account. When a case seeks to establish a new point of law the legal issue should be clearly identified. Where a case seeks to benefit an identifiable group or section of the public, this group should be described, together with details of the nature of the benefits and approximate numbers affected.

Summaries of cases considered by

the Panel were contained in *Focus 32-37* and are set out in Section 5.8 of the Guidance. A summary of the cases which have since been referred to the Panel is set out below. These are taken from the full reports of the Panel, but omitting individual client details. In each case the Panel gives an opinion as to whether or not the case has a significant wider public interest. Cases which have a significant wider public interest are usually assessed in one of three categories, namely “exceptional”, “high” or simply in the general category of “significant” wider public interest.

PIAP/01/75

Nature of the case

Application for exceptional funding for representation at inquest. Failure in communications in Ambulance Service resulted in delays before reaching deceased.

Report of the Panel

Whilst the Panel felt very sympathetic towards the applicant the majority view of the Panel was that this case was

probably an example of an individual incident of negligence on the part of the Ambulance Service as opposed to a symptom of a systemic failure in the Service. In the circumstances, the Panel considered that it was only the family of the deceased that would benefit from representation at the inquest. The Panel also noted that, in any event, court proceedings for damages might be a more appropriate avenue by which the family could investigate issues of negligence.

Conclusion

No significant wider public interest

PIAP/01/82

Nature of the Case

Unlawful detention in police custody under authority of warrant that should have been recalled. Primary legislation protecting constables and magistrates from liability in such cases. Alleged incompatibility between primary legislation and ECHR Article 5. Proposed claim for damages against court service.

Report of the Panel

The Panel considered that the case raised an important point relating to deprivation of liberty without lawful excuse. It was felt proceedings seeking a declaration of incompatibility with Article 5 might well succeed, which would probably prompt Parliament to change the primary legislation. The applicant along with other people arrested in similar circumstances would then be able to claim damages for unlawful detention. However it was difficult to predict the number of people who might benefit from such claims. It may be that only small numbers of people are affected. Nonetheless, the Panel also considered that a benefit to the wider public would also ensue in that court services nationwide would be encouraged to improve administrative procedures for recalling warrants where necessary.

Conclusion

Significant wider public interest
Rating: Significant

PIAP/01/83

Nature of the Case

Proposed action against local authority claiming damages and/or declaration under Sex Discrimination Act 1975/ Human Rights Act. Applicant as single mother applied to local authority for housing. Offer made of out-of-borough accommodation resulting in allegation that local authority operates policy of discriminating against single mothers in allocating in-borough accommodation.

Report of the Panel

The Panel noted that there was no evidence in this case of a discriminatory housing policy having been adopted by the local authority, further, the applicant had in fact been offered in-borough accommodation by the time that the Panel considered the case. In the circumstances, the Panel felt it was unlikely that the court would be prepared to use this case to resolve an issue of general principle. It was therefore unlikely that the case would produce any benefits for the public.

Conclusion

No significant wider public interest

PIAP/01/85

Nature of the Case

Intervention in solicitor's practice by Law Society appointee pursuant to powers contained in Solicitors Act 1974. Alleged incompatibility of such intervention with protection of property rights afforded by Article 1 First Protocol ECHR. Allegation that, as solicitor could not be compensated for losses suffered consequent on intervention, the Law Society's powers are disproportionate to the end sought to be achieved.

Report of the Panel

The Panel noted that some form of intervention power must exist to protect the public in appropriate cases and that the alternative manner of intervention proposed by the applicant was the appointment of a receiver. It was however unclear how such a receiver's powers would differ from those afforded to the Law Society appointee and how such a receiver might protect a solicitor's Article 1 rights in a more proportionate manner. In the circumstances, the Panel considered that the proposed benefit to solicitors was likely to be very small but also that insufficient numbers of people would be likely to benefit from a declaration that the Law Society's powers contravene rights under Article 1.

Conclusion

No significant wider public interest

PIAP/01/86

Nature of the Case

Inquest held following suicide in prison custody. Deceased's family dissatisfied with level of investigation. Application for investigative help to seek advice on methods of obtaining further investigation.

Report of the Panel

The Panel noted that an internal prison service report had been prepared following the death. The report had shown that record keeping at the prison should be improved and that the policy in relation to leaving vulnerable suicide-risk inmates alone should be reviewed. Following the inquest the coroner made recommendations to the Secretary of

State for improvements to be effected at the prison in line with the prison service report. The coroner also drew attention to the inadequate arrangements for the passing of information from the probation service to the prison. The Panel considered that in the circumstances an effective investigation into the death had already taken place but that even if such an investigation were now ordered it was unlikely that any significant additional benefits would flow to the public.

Conclusion

No significant wider public interest

PIAP/01/87

Nature of the Case

Renewal of detention under the Mental Health Act 1983. Applicant detained under s.3 subject to renewal under s.20 on recommendation of responsible medical officer and subsequent approval by hospital managers. Delay in hospital managers' assessing the recommendation for renewal of detention. Proposed claim for damages for unlawful detention. Further allegation that manner of renewing detention is contrary to Article 5 ECHR due to lack of adjudication thereon by independent authority.

Report of the Panel

The Panel considered the primary legislation and relevant case law which suggested that it is the provision of the report of the responsible medical officer which in and of itself effects the renewal of the detention period under s.20(8). The Panel agreed that if it could be said that this process of renewal was not adjudicated upon within the statutory time limit or by an appropriately independent authority, this was an important point touching upon fundamental issues of denial of liberty without lawful authority. However the Panel retained some doubt as to whether this case was an ideal vehicle for testing this issue, since the client in this case had chosen voluntarily to remain in hospital. This might reduce the prospect of the court agreeing to determine the issues of principle. Nonetheless, the Panel considered that proceedings subjecting the entire process of such renewals

to the scrutiny of the courts would have the effect of encouraging health authorities to ensure that all hearings relating to renewals of detention are held before the expiry of the relevant period of detention.

Conclusion

Significant wider public interest
Rating: Significant

PIAP/01/88

Nature of the case

Proposed group action for nuisance relating to foul odours escaping from sewage treatment works.

Report of the Panel

The Panel did not feel that this action raised any significant new issues of law and took the view that any public interest in this case would derive only from benefits to the local community. The Panel noted that an abatement notice had already been issued by the local authority against the utility company to prevent further odours escaping and it was felt that the abatement notice was the most effective way of protecting the local residents from further inconvenience. The Panel felt that the application by the claimants for an injunction was unlikely to deliver significant benefits for the community and therefore did not of itself give rise to a significant wider public interest.

An issue remained however, of potential claims for damages resulting from the nuisance. The Panel considered that as the group of claimants numbered 280, it was clear that because the claim for damages would be of benefit to a large number of people and the total amounts at stake were substantial, these claims did have a significant wider public interest. It was desirable for those claimants to be included in the action. Whether this should be by way of public or private funding was an issue for the Special Cases Unit to determine.

Conclusion

Significant wider public interest
Rating: Significant

PIAP/01/89

Nature of the case

Immigration adjudicator's refusal of leave to enter UK. Immigration Appeal Tribunal's refusal of leave to appeal. Unsuccessful claim for judicial review of IAT's refusal of leave. Application to Court of Appeal for leave to appeal judicial review decision. Paper decision of Simon Brown LJ sitting alone in Court of Appeal refusing leave to appeal. Subsequent oral hearing of application for leave to appeal. Simon Brown LJ presiding at oral hearing. Leave refused. Allegation that Court of Appeal procedure permitting same judge to sit on paper and oral hearing of application for leave to appeal infringes right to fair trial as judge having refused leave at paper stage will not be impartial at oral hearing.

Report of the Panel

The Panel considered that in the present case, as no right of appeal to the House of Lords exists, the proposed appeal could not be said to have the potential to change the law or practice in England and Wales. The Panel also considered that the two stage leave process in the Court of Appeal constituted only one single judicial determination and it could not therefore be said that a judge sitting at the later oral hearing was acting unfairly due to his involvement in an earlier determination of the case. In any event, the Panel noted that the merits of the appeal against the underlying Immigration Adjudicator's decision were poor. Therefore, even if the applicant was to be afforded a right to have his appeal heard, it would almost certainly fail on the underlying facts without resolving the Article 6 issue.

Conclusion

No significant wider public interest

PIAP/01/90

Nature of the Case

Allegations of victimisation and racial abuse of child by teacher at school. Proposed claim for damages under Race Relations Act 1976.

Report of the Panel

The Panel unanimously agreed on the importance of dealing with race issues within schools. A case which had the potential to identify and eliminate racial bias within a school would clearly have a significant wider public interest.

The Panel was however divided over whether this individual case had such a potential. The majority view of the Panel was that if the specific allegations in this case were proven that might well affect the behaviour not just of the teacher most involved in this case but of the whole school in its treatment of children from ethnic minorities. However the minority view of the Panel was that this was an individual case the outcome of which would not be likely to bring significant benefits to others. The Panel bore in mind the definition of "wider public interest" in the Code which requires public interest to flow from the facts of the case and excludes "benefits to the public at large which normally flow from proceedings of the type in question".

Conclusion

Significant wider public interest
(by majority view)
Rating: significant

PIAP/01/72

Nature of the case

Proposed action against local authority. Alleged racial discrimination in the authority's policy of housing some homeless persons out-of-borough.

Report of the Panel

The Panel remained of the view that if a case were to identify racial bias in a matter of housing policy, that would be a matter of great significance. The Panel's concern was whether this individual case had the potential to do so or to influence the policy. The Panel concluded, with some regret, that there was little prospect of this proposed challenge bringing benefits to others. On the papers provided there was no evidence of direct discrimination by the local authority, nor could any such inference be drawn given the relatively small numbers of out-of-borough placements. In relation to indirect

discrimination, even if it could be established that the criteria adopted by the local authority had a disproportionate impact on certain racial groups, the criteria themselves were not objectionable and the Panel considered that it would not be difficult for the local authority to show that the criteria were objectively justifiable.

Conclusion

No significant wider public interest

PIAP/02/91

Nature of the case

Proposed appeal against the decision of the Administrative Court in a planning appeal. The applicant sought to appeal a Planning Inspector's decision to refuse him planning permission to keep his home, a mobile home, on his land. Appeal to Administrative Court against decision of Planning Inspector brought out of time. Rejection of appeal.

Report of the Panel

The Panel considered that any public interest in this case would derive primarily from its potential to develop the law regarding the extent to which time limits imposed in planning appeals could be challenged under the Human Rights Act 1998. However the Panel was not persuaded that this case was an appropriate vehicle to test those issues. The Panel noted the detailed judgment of the Administrative Court which considered carefully the human rights arguments put forward on behalf of the client. The court concluded on the facts of this case that the six week deadline for appealing had not given rise to any hardship. The delay in appealing had been due to other delays which were not directly connected with the individual circumstances of the client.

In all the circumstances the Panel concluded that there was little prospect of this case successfully establishing new law either on the issue of time limits or on the jurisdiction of the planning inspector.

Conclusion

No significant wider public interest

PIAP/02/92

Nature of the case

Proposed challenge to an anticipated decision by the Environment Agency to grant an operating licence for an incinerator near applicant's home.

Report of the Panel

The Panel noted that this case concerned a proposed challenge to an anticipated decision of the Environment Agency.

The Panel agreed that the subject matter of this case was important, both in terms of the environmental impact of the proposed incinerator and the legal framework within which decisions were taken. The Panel's concern, however, was that proceedings against the Environment Agency would be premature at this stage. Judicial review should not be considered at least until there was a final decision by the Environment Agency capable of challenge. The Panel took into account the views of the Court of Appeal in the recent case of *Frank Cowl v Plymouth* to the effect that judicial review should be seen as a last resort rather than an integral part of the decision making process.

In those circumstances the Panel was not satisfied there were any grounds to bring proceedings or that doing so at this stage would have any potential to bring benefits to the public. However it might well be the case that, if an operating licence were granted and if there were legal grounds to challenge that decision, such proceedings might have a significant wider public interest. If so a future application relating to these matters could be considered.

Conclusion

No significant wider public interest

PIAP/02/93

Nature of the case

Appeal to the Employment Appeal Tribunal. Alleged breach of section 5 of the Disability Discrimination Act 1995. Refusal of employer to offer applicant employment as a volunteer trainee

adviser due to the symptoms of his mental illness.

Report of the Panel

The Panel considered that this case raised important legal issues as to the impact of the Disability Discrimination Act 1995 in employment matters. These concerned whether an employer is entitled to discriminate on the basis of the symptoms of a person's disability as opposed to the disability itself, and the extent to which such an employer may have a defence of justification under the 1995 Act.

If this case is successful in the Employment Appeal Tribunal the protection afforded by the 1995 Act for persons with a mental or physical disability would be significantly enhanced.

Conclusion

Significant wider public interest
Rating: Significant to High

PIAP/02/94

Nature of the case

Application for exceptional funding for representation at inquest. Alleged negligence and racial discrimination by hospital and ambulance service.

Report of the Panel

The Panel considered that although the case involved an allegation of negligence against the ambulance service and the hospital relating to the incorrect medical diagnosis that the deceased had been given, the case did not show any systemic failure in the system operated by the ambulance service or by the hospital. Nor could the Panel find any evidence in the case to support the allegations of racism. In those circumstances the Panel considered that funding representation at the inquest would not be of significant wider public interest.

Conclusion

No significant wider public interest

PIAP/02/97

Nature of the case

Proposed appeal to the House of

Lords. Alleged incompatibility with ECHR of the system of introductory tenancies for council tenants under the Housing Act 1996.

Report of the Panel

The Panel noted that these proceedings concern a fundamental challenge to the system of introductory tenancies under the Housing Act 1996. If successful the whole scheme of introductory tenancies would need to be changed as the lack of security of tenure during the introductory period of one year was central to the whole scheme. If successful all tenants on introductory tenancies would be affected and it is likely that fewer such tenancies would be created in the future.

The Panel was therefore satisfied that this was an important legal issue which gave rise to a significant wider public interest. However, in assessing the extent of that public interest the Panel was less persuaded by the submissions made. The Panel was reminded of their earlier decisions including PIAP/01/59 concerning security of tenure in agricultural tenancies. However, even if there were more introductory tenants than holders of agricultural tenancies, the risk to agricultural tenants caused by the strict time limits of that legislation were far greater than the lack of security of introductory tenants, which lasted only for one year. Further, this appeared to the Panel to be one of those cases where, in assessing the extent of the public interest, there were powerful competing arguments to take into account. Abolishing or reforming the system of introductory tenants might reduce the protection afforded to other tenants who were faced with neighbours on secure tenancies who caused nuisance.

In all the circumstances the Panel felt it right to regard the present appeal to the House of Lords as having only a significant wider public interest, rather than high or exceptional.

Conclusion

Significant wider public interest
Rating: Significant

PIAP/02/98

Nature of the case

Claim against the Ministry of Defence for personal injury resulting from asbestos exposure during service in the Royal Navy. Alleged incompatibility of section 10 Crown Proceedings Act 1947 (which establishes the immunity of the Crown from prosecution) with the Human Rights Act 1998.

Report of the Panel

The Panel considered that the immunity afforded to the Crown in proceedings of this nature was a matter of significant wider public interest. The Panel felt there was a strong public interest in the argument that ex-servicemen who had sustained injuries whilst in the course of performing duties for the Crown should be able to claim compensation from their employer in the same way in which a non-Crown employee would be able to bring such a claim.

Conclusion

Significant wider public interest
Rating: High

PIAP/02/99

Nature of the case

Proposed High Court injunction enjoining a school's governing body to enter a pupil for public examinations. Alleged exclusion of a pupil from school on the grounds of pregnancy. Proposed damages claim for breach of Human Rights Act 1998 and Sex Discrimination Act 1975

Report of the Panel

The Panel considered that the issue of a pregnant pupil's right to receive an education was an important one. It was noted that the case involved an application for declaratory and injunctive relief and a potential claim for damages.

The Panel expressed their sympathy for the pupil concerning the school's past reluctance to give the undertakings sought but considered that this case would be decided on its facts and would not therefore lead to real benefits for other people, not least because it appeared that the school

had complied with most of the pupil's demands concerning future attendance and it appeared likely that the remaining demands would also be complied with. It was unlikely that the court would use this case to develop the law as the issues raised had largely been rendered academic.

Similarly, in relation to the damages claim, the Panel considered that this case was unlikely to lead to a decision which would be of benefit to other individuals. The Panel felt that as there was no existing breach of the pupil's rights because, despite an earlier alleged exclusion decision, she had been allowed to remain in attendance at school, there appeared to be little benefit in pursuing a damages claim in this case. The case was unlikely to change the guidelines under which pregnant pupils should be dealt.

Conclusion

No significant wider public interest

PIAP/02/100

Nature of the case

Proposed judicial review of a decision of the Mental Health Review Tribunal (MHRT). Allegation that the tribunal exceeded the proper limits of its powers by delaying the discharge of the applicant from detention.

Report of the Panel

The Panel considered that the potential issue of wider public importance in this case concerned the MHRT allegedly recommending that the applicant be detained whilst at the same time certifying that the applicant did not satisfy the criteria for detention. Considering whether that issue arose in this case, the Panel found no evidence to show that the applicant in this case had actually been detained after the delayed release date. Therefore, whilst it may have appeared that the MHRT was suggesting a continued detention at a time when the applicant did not satisfy the criteria for detention, no such continued detention had been imposed.

Concerning the power to delay release, the Panel considered that there was clear statutory power in s.72(3) to delay

discharge and that the decision in this case to delay discharge for 6 weeks did not appear to have been an improper exercise of the MHRT's powers.

Further the Panel could see no grounds of challenge in relation to section 25A of the Mental Health Act 1983 (applications for supervision). It was clear that no formal order or recommendation had been made under that section.

Conclusion

No significant wider public interest

PIAP/02/101

Nature of the case

Proposed judicial review of a decision by the police not to destroy fingerprints and samples taken from the applicant in a criminal matter in which he was acquitted.

Report of the Panel

The Panel considered the application and noted that it raised issues similar to those raised in an application previously before the Panel, namely PIAP/01/63, where the applicant sought to challenge the compatibility of s.82 Criminal Justice and Police Act 2001 with ECHR Article 8.

The Panel noted that it had previously recommended that the case of PIAP/01/63 raised an issue of significant wider public interest and that in the circumstances, it would not be in the wider public interest to fund an Article 8 challenge on the same grounds in this case, as funding had already been granted in PIAP/01/63 which is listed to be heard soon.

Conclusion

No significant wider public interest

PIAP/02/102

Nature of the case

Claim under Race Relations Act 1976 and Human Rights Act 1998 seeking damages and a declaration. Alleged institutional racism by a local council in its dealings with a Romany family concerning the grave of a family member located in a council owned cemetery.

Report of the Panel

The Panel considered that the issue of institutional racism was an important one and that a case raising the issue would potentially be of wider public interest. However, the Panel did not consider that the proposed claim relating to ECHR Articles 8, 9 and 10 would raise any issues of significant

wider public interest because in this case claims based on breaches of those ECHR Articles would not have the potential to produce real benefits for other people.

The Panel expressed their sympathy for the applicants who had apparently suffered unfair treatment at the hands of the local council. However, the Panel did not consider that this case showed any evidence that the applicants had been discriminated against on the basis of their ethnic origin. Whilst it was apparent that the cemetery at which their relative had been buried was one of preference for Romany families, the Panel found no evidence that other Romany families had experienced problems in relation to graves of family members in that cemetery similar to the problems experienced by the applicants. The Panel noted that there had already been a detailed investigation of the whole background to this unfortunate case.

In the circumstances, the Panel did not feel that pursuing a claim under the Race Relations Act would be likely to lead to real benefits for other individuals.

Conclusion

No significant wider public interest.

Proposed Payment Dates

The proposed payment dates for March to June 2002 are set out below. These dates may be subject to amendment, but we will inform you of changes in advance where possible. Since 1 April payments for criminal cases are made to firms with general criminal contracts in the General Civil and Crime Contracting payment run at the start of each month.

If you are paid by BACS (Bank Automated Clearing System) the proposed payment date shown is the date on which you will receive a

payment in your bank. For some smaller banks the BACS credit may appear a day later. The proposed payment date will also be the date by which the last of the cheque/remittance advices are despatched from the Financial Services Settlement section. Remittance advices are despatched using DX or first class post.

If you are still being paid by cheque, we recommend that you change to BACS, which is a more efficient payment method. With BACS, the payment is made directly into your bank account avoiding cheque handling and you also receive a remittance advice. BACS provides immediately cleared funds, unlike cheques which can take four to six days to clear. If you have any queries about payment by BACS, please telephone the Master Index section on 020 7759 0261.

Details of the amount due to you may be obtained by contacting either your regional office or the Solicitors/Counsel Settlement section on 020 7759 0260 but no earlier than the day before the proposed payment date. However, if you have a query regarding an individual item shown on a remittance advice, you should contact the relevant regional office, which authorises and processes all such bills.

Keeping us up to date

Names, addresses, DX, fax and telephone numbers and bank details for BACS payments are held on the Commission's Master Index database. Please send any relevant changes relating to your firm or chambers to the Master Index section at 85 Gray's Inn Road, London, WC1X 8TX, or at DX 328 London.

Proposed Payment Dates for March - June 2002

Contract Payments	First Settlement of the Month	Second Settlement of the Month
Tuesday 5 March 2002	Monday 11 March 2002	Tuesday 26 March 2002
Thursday 4 April 2002	Wednesday 10 April 2002	Thursday 25 April 2002
Friday 3 May 2002	Friday 10 May 2002	Monday 27 May 2002
Friday 7 June 2002	Tuesday 11 June 2002	Wednesday 26 June 2002

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