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## > Preferred Supplier Consultation

The LSC launched the consultation for its Preferred Supplier Scheme on 20 March. For more information on the 12 week consultation, please see pages 2-3.

## > CLS Strategy

The LSC recently launched its new five year strategy for the Community Legal Service. Turn to page 4 for more details.

## > Case Outcomes

For news on an LSC review evaluating category specific outcome codes and guidance, turn to page 5.

## > Specialist Support

For the LSC's position on Specialist Support Contracts, see page 6.

## > Immigration

For the latest developments in Immigration, including telephone advice pilots at the police station, NASS and financial eligibility, see page 8.

## > CLS Financial Eligibility

For current developments on CLS financial eligibility upratings, including a new CLS keycard, see pages 9-14.

## > Consultation on CLS Guidance Changes

For details of the consultation on draft amendments to sections of the CLS guidance in the LSC Manual, see page 16.

Community  
Legal Service



# Preferred Supplier Scheme Consultation Launched

On 20 March, the LSC launched a consultation on its proposals for a national Preferred Supplier scheme. A 12-week consultation will run until 12 June 2006, during which time we hope to receive the views of many practitioners and representative bodies via consultation responses and consultation events.

## About Preferred Supplier

The Preferred Supplier scheme is a major part of a wider reform of the legal aid system and the proposals provide the platform for Lord Carter's recommendations as outlined in his interim review of criminal legal aid procurement. The Preferred Supplier proposals and Lord Carter's review are both focused on achieving a more efficient and cost-effective legal aid system which is sustainable for the long-term.

By introducing this scheme, the LSC wants to achieve; higher quality services for legal aid clients; better value legal services for taxpayers; and simpler and clearer relationships with legal service providers.

## Higher quality, better value for money services

The LSC accepts that its relationship with legal aid providers has not always been as effective as it could be. In its efforts to ensure quality services and value for money, the emphasis on checking and auditing has concentrated limited LSC resources on those who do not provide a good quality, cost-effective service, rather than on those who do.

"The Preferred Supplier scheme will completely change our focus," says Jonathan Lindley, Executive Director of Service Design at the LSC. "We want to forge a new, more mutually beneficial relationship with the legal aid providers we know will provide quality. In order to do this, we need to start raising the bar for firms and agencies from the outset, rather than having a time-consuming and expensive policing regime for those already in the system. At the same time, we need to change to be more responsive to providers."

Jonathan says he knows a large number of current service providers deliver a good quality service for clients, reflected in the fact that around a third of providers achieve a 1 or 2 rating in their first Peer Review (based on Peer Review statistics to date). "We think its time that we started focusing our resources and attention on our good providers," he says.

As a result, Preferred Suppliers will need to meet higher up-front entry criteria. This will include:

- A good quality of legal advice as measured by Peer Review and File Assessment.
- A soundly financed and sustainable business.
- Value for money criteria based on the procurement regime established after the Carter Review.
- A good history of effective compliance with existing legal aid requirements such as contract compliance, cost control, compliance with the SQM, etc.

To be a Preferred Supplier, providers will need to achieve a rating of 1 or 2 at Peer Review in all major categories in which they undertake work. If a firm or agency receives a rating of 3 or 4 in their Peer Review, they will be given comprehensive feedback and time to make improvements before having a second one. Ratings of 5 (Failure in Performance) will result in an immediate second Peer Review.

Early responses to the consultation have suggested that the LSC should not expect higher quality without paying higher rates, however Jonathan Lindley does not accept this. "The idea that good quality costs more is simply not true," he says. "Peer Review results to date have clearly shown that the average case costs of the firms achieving Peer Review ratings of 1 or 2 are no higher than that of firms achieving ratings of 3, 4 and 5."

"Preferred Supplier will enable us to focus on making legal aid a more profitable enterprise for firms and agencies that can deliver quality services and value for money. Given there are many practitioners currently providing both, we certainly don't believe they are mutually exclusive," he says.

There are some key areas providers can begin to focus on in advance of having their first Peer Review. From May, the LSC will publish general findings from the Peer Review process, which will highlight common problem areas with suggested identification mechanisms to enable improvement. In addition, the LSC and the Law Society will be jointly running Peer Review workshops later in the year where Peer Reviewers will discuss the common reasons for poor

performance and give practical advice on how improvements can be made.

## Simpler and clearer relationships

The biggest benefit for legal aid providers of becoming a Preferred Supplier will be their much-improved relationship with the LSC. "We want to transform our relationship with legal aid providers through Relationship Managers," says Sir Michael Bichard, LSC Chair. "The emphasis will be on working in partnership to identify opportunities for their businesses to develop. We want this relationship to become a genuine partnership," he says.

The Preferred Supplier pilot demonstrated that a Relationship Management approach works extremely well on a small scale and we are making significant changes to our organisation to ensure that Relationship Management works on a national scale.

Relationship Managers will also work with firms to monitor performance. Under Preferred Supplier, the LSC's performance management systems will be largely remote, more targeted and less intrusive. The purpose of setting higher entry standards for firms wishing to do legal aid work is to enable us to offer risk-based performance management, largely through remote monitoring. Relationship Managers will raise any issues at an early stage and then work with providers to resolve them constructively. We will also be asking providers to take greater ownership of their own performance obligations.

Other major benefits of a new working relationship for Preferred Suppliers will include increased devolved powers. The LSC will also turnaround the decisions it retains much faster (within 48 hours for most decisions and within 5 working days for particularly complex ones). LSC billing and claiming processes will also be considerably simplified over time with the aim of reducing practitioners' administrative burden and transaction costs – as well as the LSC's. More than 1,750 providers are already using the LSC's online system to successfully submit their monthly claims and e-business will be a key feature of the Preferred Supplier scheme.

### Next steps

The consultation will run until 12 June 2006. Depending upon the responses to that consultation exercise, a final scheme will then be published this year. In the event that we launch the scheme, we will begin Peer Reviewing firms and agencies later this year and hope to welcome the first Preferred Suppliers to the scheme from April next year.

*For more information about the proposals outlined in the Preferred Supplier scheme consultation paper, visit our website: [www.legalservices.gov.uk](http://www.legalservices.gov.uk). All current contract holders have been sent a copy of the paper by mail. Please e-mail preferred.supplier@legalservices.gov.uk if your organisation has not received a copy.*

### Consultation events

We want to invite all providers to attend a Preferred Supplier information event in their region throughout the consultation period. These will be hosted by regional offices. Members of the LSC's Executive Team and the Preferred Supplier project team will discuss the proposed scheme and take questions and feedback.

Invitations will be issued shortly and you can also visit our website for dates and more information.

### Responding to the consultation

The closing date for the consultation is 12 June 2006 and responses are welcome from individual practitioners as well as professional bodies. Please send responses by e-mail, post or fax at the earliest opportunity to:

Preferred Supplier Consultation Response

Legal Services Commission  
Head Office

85 Gray's Inn Road, London WC1X 8TX  
DX 328 Lon/Chancery Lane

Fax number: 020 7759 0534

E-mail: [preferred.supplier@legalservices.gov.uk](mailto:preferred.supplier@legalservices.gov.uk)

If you e-mail your response to us, which we would encourage, please put the words 'Consultation Response' in the subject heading of the e-mail.

Could we please ask that you send your consultation response to us once only as this will make it easier for us to compile and monitor responses. We will acknowledge receipt of all responses by post or e-mail within one week.

# Key LSC Initiatives and the Carter Review

Lord Carter of Coles and his team delivered their interim report on the future of legal aid procurement in Criminal Defence Services in February ([www.legalaidprocurementreview.gov.uk](http://www.legalaidprocurementreview.gov.uk)).

His final report, including the financial details regarding his proposals for criminal legal aid and his recommendations for civil and family legal services, is expected to be published in late May 2006.

The LSC has recently announced two major initiatives that will change the way we do business with service providers – the Preferred Supplier Scheme consultation and the five year strategy for the CLS (see pages 2 and 4). The Carter review clearly sets the context for the proposals contained in the Preferred Supplier consultation paper and the LSC has worked very closely with the Carter team in formulating them. The proposals will provide a strong platform for the delivery of changes recommended by Lord Carter.

Whilst the Preferred Supplier scheme will determine who the LSC does business with in the future, the CLS Strategy deals with how the LSC will purchase and provide services in ways that are shaped around clients' needs. The CLS strategy is subject to the recommendations in Lord Carter's final report, and should be read in that context, but we believe that it has sufficient flexibility to provide a framework to take forward the civil proposals successfully.

Both of these significant reforms will also have an impact on the LSC itself. The current organisation review of the LSC is delivering a series of reforms to our structure that enable us to deliver both of these key strategies successfully and ensure we're focused on the needs of legal aid clients.

## FIF Money Advice Outreach Pilots

The LSC is pleased to announce that it has awarded funding to 20 pilot projects which will be delivering outreach money advice services under the Financial Inclusion Fund (FIF). FIF is an initiative of HM Treasury and its main aim is tackling financial exclusion.

It is recognised that access to money advice is a key part of this and £6m has been dedicated to the provision of outreach money advice, which includes both debt and welfare benefits advice. The LSC will be working in partnership with a number of skilled and dedicated advice providers to ensure that people get the help they need to sort out their finances.

The outreach projects are targeting financially excluded people who would not normally seek advice, and will be delivered from a range of outreach settings around England and Wales including Credit Unions, community centres and extended schools. The first of the projects are already up and running and all of the projects, which involve a total of

24 organisations delivering services in over 100 outreach settings, will be delivering services from April 2006. The successful organisations are able to offer an integrated service helping clients to break the cycle of debt, particularly where this is part of a cluster of problems. Potential benefits for affected individuals and the wider community range from opening up new prospects of employment to reducing child poverty and preventing homelessness.

The projects are being evaluated by the Legal Services Research Centre, the results of which will be fed back to the Financial Inclusion Taskforce. The remit of the Taskforce includes identifying best practice on the provision of face-to-face money advice.

# Advancing the CLS

The final version of "Making Legal Rights a Reality", the LSC's strategy for the Community Legal Service, was published on 23 March. It sets out our vision for the CLS and how the vision will be realised over the next five years. We want to develop the CLS so that it is client focused and accessible; independent; cost effective and co-ordinated; and quality assured. To achieve this vision, we will to develop face-to-face and telephone services to improve clients' access to advice, and work more closely with other funders of advice and other key stakeholders.

With local authorities, we will commission Community Legal Advice Centres and Networks that provide access to a service which ranges from basic advice to legal representation in the full range of social welfare problems as well as children and family legal problems. We are currently in discussions with a number of local authorities and will announce details of each area at the appropriate time. Contracts will be awarded after a tendering process. This process will be open to both the private sector and not-for-profit suppliers.

The first Centres will be in Leicester and Gateshead, and the invitation to tender for the Leicester Centre is planned to be published in April. Invitations to tender for other Centres and Networks will be announced throughout 2006 and 2007. In the meantime, information on these developments can be found at [www.leicester.gov.uk/your-council--services/regeneration--culture/advice-services/community-legal](http://www.leicester.gov.uk/your-council--services/regeneration--culture/advice-services/community-legal) and [www.gateshead.gov.uk/People%20and%20Living/social/CLAC.aspx](http://www.gateshead.gov.uk/People%20and%20Living/social/CLAC.aspx)

Following the tendering process, we may reduce or not renew some of our other social welfare contracts from April 2007 where we consider that the Centre or Network will be supplying the necessary services. This approach will vary locally and by category. The initial phase of Centres and Networks will allow us to evaluate how best to ensure that we deliver seamless and integrated services through Centres and Networks. This will inform the next phases of the rollout of the CLS Strategy.

In the meantime, outside areas where Centres and Networks are being introduced initially, we will be prepared to consider other ways of delivering the priorities that we have set out. The strategy also sets out proposals for delivery of other civil categories of law outside of social welfare categories. In addition,

we will continue to expand Community Legal Service Direct so that it provides a comprehensive telephone service that will deliver a large proportion of LSC funded information, diagnosis and basic advice. It will also deliver a significant proportion of specialist legal advice in social welfare law. We will also seek to expand the service to offer a specialist advice service in family law and immigration and to incorporate family breakdown issues within a new operator service.

The strategy also outlines how we will work more strategically to address the causes of problems, how we will improve provision of information and education about people's rights and responsibilities and the plans for governance of the CLS. The full text of the strategy can be found at [www.legalservices.gov.uk/civil/innovations/strategy\\_for\\_cls.asp](http://www.legalservices.gov.uk/civil/innovations/strategy_for_cls.asp)

The strategy is subject to the independent review of legal aid procurement being conducted by Lord Carter of Coles, who is likely to produce his final report later this Spring. This will include recommendations on procurement arrangements for the CLS. The LSC has consulted closely with Lord Carter's team in the development of the strategy.

Welcoming the strategy, the new Constitutional Affairs Minister with responsibility for legal aid, Harriet Harman QC MP, said: "The LSC is publishing this strategy now as a contribution to the process initiated in A Fairer Deal for Legal Aid, being taken forward through Lord Carter's Review. Lord Carter's final Report, to be published in the Spring, will set out a detailed vision for the future of legally aided services, including the CLS. The aim is a sustainable future for the CLS which continues the good work of the last few years in providing quality legal services to those in need. We look forward to Lord Carter's final recommendations in this area."

The LSC's Executive Director for Policy and Planning, Richard Collins, commented that the strategy would give the CLS "a new role in solving the causes of problems, greater flexibility for tackling local issues, more opportunities to promote a better awareness of legal rights and introduce better quality assurances, and creates a more cost-efficient and coordinated legal aid system."

The Strategy will further build on the recent success in figures released which show that more people will have received legal aid help this year than at any point since 2000. Between 680,000 – 700,000 new civil legal aid cases will have been started before the end of the financial year 05/06. 625,000 of those people will have received face-to-face civil legal advice and assistance, which is an additional 10% of people across England and Wales getting help compared with the previous year. Another 70,000 people will be helped through the Community Legal Service Direct telephone service.

Speaking about the success, Sir Michael Bichard, LSC Chair, said: "We have made some difficult decisions in order to balance the diverse advice needs of individuals and the best use is made of taxpayers' money, so that the most vulnerable people in our communities are able to access justice."

The LSC's regional offices have been working with service providers to ensure they use their full allocation of legal aid cases. Where organisations have been unable or unwilling to make full use of their allocation, their cases have been redistributed to other providers in order to ensure those who need help get it. Sir Michael added: "The LSC has been impressed with the willingness and commitment of law firms and agencies to do more legal aid cases. Working in partnership with such dedicated advice providers is essential for getting people the help they need."

# Wider Impact of Legal Problems on People's Lives

More than half of civil legal problems lead to adverse outcomes such as ill-health, unemployment and homelessness, according to a recent study by the Legal Services Research Centre (LSRC). The research paper *Causes of Action* highlights how solving civil legal problems can reduce demand on other public services when problems are addressed early.

The study is the most in-depth and long-term study into civil justice problems conducted in England and Wales. It is funded by the Legal Services Commission and the Department for Constitutional Affairs.

The research revealed a significant reduction in the number of people not taking action to resolve their problems in recent years. But still around one in ten people with legal problems are still not seeking advice, and around 15% of those who seek advice fail to obtain any. Other findings from the study show, amongst other things, that a third of civil justice problems affect people's

health, with 18% of problems leading to stress-related ill-health, and 16% of problems leading to physical ill-health; 16% of problems lead to loss of income and employment; 6% lead to loss of home; and half of victims of crime also report a civil justice problem.

Sir Michael Bichard, LSC Chair, said: "This research makes our challenge plain: get more legal advice to people and make it easy to find. The figures show that when people get early advice they will be healthier and happier. There is also a benefit to the public purse by avoiding the downstream cost of unsolved problems ... Our new strategy for

the Community Legal Service will make a real difference in tackling these challenges."



## Case Outcomes – How do you report yours?

The LSC is evaluating the category specific outcome codes and guidance and focusing on maximising the profession's extensive experience of case scenarios.

The codes reported by service providers form a substantial element of the Quality Profile reports. Quality Profiles works by having a series of category specific indicators that are drawn from the case information reported by service providers at the conclusion of every case, whether it is under Legal Help, Crime or Certificate.

Quality Profile reports are reliant on accurate and consistent reporting from service providers. The codes and guidance are currently under review to develop a more user friendly reporting process for service providers. This helps produce consistent levels of reporting and reduce concerns about integrity of the data. This benefits both service providers and the LSC.

In November 2005 all independent Peer Reviewers were asked to participate in a 'Fit for Purpose – Review of Codes'. The review evaluated each of the Matter Type, Endpoint

and Certificate Codes on a category specific level and asked whether the codes were clear, relevant and accurate. Emphasis was placed on three key questions which asked whether there are any codes that need to be introduced, amended or removed; whether there were any approaches the LSC could be taking that would make reporting the outcome code easier; and suggestions as to why inconsistent reporting of outcome codes occurs.

For Quality Profiles to produce a true picture of a service provider's performance, it is essential that the report is based on accurate information. With the LSC now using service provider-reported data to create Quality Profiles, the importance of accurate data has significantly increased. Service providers are reminded that under the current Contract Standard Terms, Clause 3.2, they must report data accurately.

In addition the new File Assessment process has been specifically designed to provide service providers with a greater level of feedback which will help them in identifying any areas of potential misreporting. All relevant forms and guidance can be found in the 'forms' section of the LSC website: [www.legalservices.gov.uk/civil/forms/forms.asp](http://www.legalservices.gov.uk/civil/forms/forms.asp)

The Quality Profiles team are pleased to receive feedback on all areas within the category specific codes/guidance and reporting arrangements. If you have any comments or suggestions please contact Ed Shuttleworth at:  
Quality Profiles Team,  
Legal Services Commission,  
85 Gray's Inn, London WC1X 8TX  
e-mail [edward.shuttleworth@legalservices.gov.uk](mailto:edward.shuttleworth@legalservices.gov.uk)  
tel: 020 7759 0340.



## Tailored Fixed Fee Scheme

All suppliers in the Tailored Fixed Fee Scheme, both the Voluntary and Mandatory, should be aware that the deadline to submit a claim adjustment is 10 May 2006. This includes applications for exceptional cases, disbursements, housing uplift, ASBOs and Statutory charge/Cost recovery.

The new application forms can be found on the LSC website ([www.legalservices.gov.uk](http://www.legalservices.gov.uk)). All applications should be sent to the East Midlands regional office and not a supplier's local regional office.

The address is:  
LSC-TFF Exceptional Cases Unit, Fothergill House, 16 King Street, Nottingham NG1 2AS.  
DX 10035 Nottingham 1.

## Specialist Support Services

The LSC has given careful consideration to the various points raised in the judicial review proceedings on the termination of Specialist Support contracts. In the light of that consideration, the LSC has decided to review its decision to terminate the Specialist Support contracts and has written to the providers informing them that their contracts will continue for the time being. Specialist Support services will continue, under the same terms, after 19 July 2006, assuming providers are willing to continue to provide them.

The LSC intends to formulate proposals about the future of the Specialist Support initiative in light of the publication of the CLS Strategy (see page 4). The proposals will set out any changes the LSC proposes to make and the basis and reasons for them.

Once the proposals are formulated, Specialist Support providers will be consulted and given a reasonable opportunity to make representations. Those representations will

be fully considered before any final decision is taken. The final decision on whether to adopt any proposed changes will be taken by our Commissioners.

For full details of the Specialist Support project and how to access the services provided, see *Focus 47* (April 2005), pages 22-23. Details are also available on the LSC website at [www.legalservices.gov.uk/civil/innovation/Specialist\\_Support.asp](http://www.legalservices.gov.uk/civil/innovation/Specialist_Support.asp)

## Case Studies

In *Focus 47*, April 2005, we printed a Case Study form in which we invited service providers to supply the LSC with details of client cases which could illustrate the value of legal aid in the media, publications and campaigns.

We were very grateful for the responses received. The case studies have been added to our database for future use and one of them was featured in a subsequent edition of *Focus*.

The form is still available on the LSC website at [www.legalservices.gov.uk/docs/forms/case\\_study\\_form\\_web.pdf](http://www.legalservices.gov.uk/docs/forms/case_study_form_web.pdf) and we would welcome any contributions from service providers to help us bring the work of legal aid, from every perspective, to life.

A recent example of this occurred in the North East region, where firms gained publicity in the local press. An article about the Court Duty Housing Scheme (CDHS) appeared in the Hartlepool Mail, which focused on a case study where a client in debt managed to keep his house and pay off his arrears at a reduced rate. The names of three local firms which provide the service were mentioned in the article, alongside quotes from LSC officials which explained how we were working in partnership with our service providers.

The article was placed by the LSC after one of the firms involved in the scheme wrote to clients asking if they would be willing to feature as a case study. No less than four case studies came back and one was chosen by the LSC's regional communications manager to feature in the newspaper. As well as raising the profiles of the firms involved in the CDHS in that area, it helps raise awareness about the scheme in the local area.

So if you have a case study that the LSC could use to help tell the story of legal aid, which can be either about a client or your own firm or organisation and the part it plays in helping vulnerable people, please download the form from the above web address and send to Seema Chandarana, Communications, Legal Services Commission, 85 Gray's Inn Road, London, WC1X 8TX. DX 328 London/Chancery Lane. Tel: 020 7759 0489. Fax: 020 7759 0546. E-mail: [seema.chandarana@legalservices.gov.uk](mailto:seema.chandarana@legalservices.gov.uk)

# CLS Support Training Events 2006

Trainers: Patrick Torsney & Audrey MacDonald

Please see the Advice Services Alliance website for more details: [www.asauk.org.uk/clsstraining](http://www.asauk.org.uk/clsstraining)

<b>COURSE 1 Casework under contract: the essentials</b> <i>Law Society CPD Introductory/Intermediate level (4.5 CPD hrs)</i>					
London	2nd March	Birmingham	1st June	Newcastle	5th September
London	12th April	York	11th July	Manchester	27th October
<b>COURSE 2 The Foundations of Supervision: an introduction to supervision, file review &amp; appraisal</b> <i>Law Society CPD Introductory/Intermediate level (4.5 CPD hrs)</i>					
London	7th March	York	6th June	Manchester	15th September
Birmingham	19th April	London	19th July	Newcastle	24th October
<b>COURSE 3 The Effective Supervisor</b> <i>Law Society CPD Intermediate/Advanced level (4.5 CPD hrs)</i>					
Birmingham	13th March	Newcastle	13th June	London	19th September
York	26th April	Manchester	27th July	London	2nd November
<b>COURSE 4 Making Every Minute Count: claiming time for contract work</b> <i>Law Society CPD Intermediate/Advanced level (4.5 CPD hrs)</i>					
London	16th March	London	22nd June	London	21st September
Birmingham	21st April	London	13th July	Birmingham	19th October
York	24th May	Newcastle	23rd August	Manchester	28th November*
<i>* To be confirmed</i>					
<b>COURSE 5 Sufficient Benefit Test: principles &amp; practice</b> <i>Law Society CPD Intermediate/Advanced level (4.5 CPD hrs)</i>					
York	21st March	Manchester	20th June	London	26th September
Newcastle	2nd May	London	2nd August	Birmingham	8th November
<b>COURSE 6 Eligibility: principles &amp; practice</b> <i>Law Society CPD Introductory/Intermediate level (4.5 CPD hrs)</i>					
Newcastle	28th March	London	27th June	Birmingham	4th October
Manchester	11th May	London	10th August	York	15th November
<b>COURSE 7 The NFP audit process: preparation &amp; response</b> <i>Law Society CPD Intermediate/Advanced level (4.5 CPD hrs)</i>					
Manchester	4th April	London	4th July	York	11th October
London	18th May	Birmingham	17th August	Newcastle	23rd November

All courses run from 10am until 4pm. Each course costs £100 + VAT = £117.50.

## Immigration Removal Centre Advice

The LSC is currently piloting on-site legal advice services at the following removal centres: Campsfield, Colnbrook, Dover, Harmondsworth, Tinsley House and Yarlswood. The purpose of the scheme is to ensure that all detainees, who do not have a legal adviser, will be able to access immigration advice through the on-site advice scheme. Advice surgeries take place twice a week and individuals can book appointments to see the adviser at the centres' library.

The scheme was set up in order to address concerns which had been raised regarding the problems that individuals in detention centres experience when seeking to access advice while in detention. The pilot scheme began in December 2005 and is expected to last for six months. The scheme will be evaluated and we will then assess how such advice services should be provided.

## NASS and Financial Eligibility

Details of the amendments to the Community Legal Service (Financial) Regulations 2000 are discussed on page 9. Issues which are of particular importance to immigration service providers are highlighted here.

From 10 April 2006 the National Asylum Support Service (NASS) support will be recognised as a passported benefit for Legal Help and Controlled Legal Representation (CLR) in asylum and immigration cases. These changes do not apply to assessments for certificated matters. We intend to extend the changes to cover certificated matters in the future, however you should continue to assess eligibility for such funding under the current provisions.

For those asylum seekers who are not in receipt of NASS, the capital limit will be raised from £3,000 to £8,000 for asylum appeals. It is important to note that the capital limit for CLR in non-asylum cases will remain at £3,000 for the time being. Later this year we intend to consult on raising that limit to £8,000 to match all

other services but we believe this should be on the basis of contributions being payable by clients with capital over £3,000 as for other forms of contributory legal aid. The changes have been made in order to reduce the administrative burden faced by practitioners when assessing an individual's eligibility for Controlled Work.

### Applications for review to the High Court – s 103A, NIAA 2002

HM Court Service (HMCS) is currently examining ways of simplifying the process for fee exemption/remission applications for individuals who wish to lodge a review application under s 103A of the Nationality, Immigration and Asylum Act 2002, and who are in receipt of NASS. It is expected that additional guidance will be issued by HMCS shortly.

## Immigration Advice at the Police Station New Telephone Advice Pilot Scheme

The LSC will be piloting the provision of immigration advice at police stations, anticipated to begin in June 2006.

The purpose of the scheme is to ensure that individuals have access to independent legal advice in relation to non-criminal immigration matters while subject to detention at the police station.

For some time the LSC and practitioners have been concerned that the crime Duty Solicitor is not best placed to provide advice to individuals held at police stations for non-criminal immigration matters. Criminal specialists will not usually be able to advise on non-criminal immigration law, and may be unable to effectively refer these individuals to an appropriately qualified immigration lawyer, particularly if it is out of normal office hours. The pilot scheme will provide

clients at the police station with access to a 24-hour advice service providing specialist legal advice by telephone on non-criminal immigration matters.

Requests for advice under the pilot scheme from detained individuals will be lodged by police station staff to the call centre which currently handles requests for advice and assistance for the criminal duty solicitor scheme. The duty solicitor call centre staff will filter calls to ensure that the criminal duty solicitor is contacted if a criminal immigration offence is under investigation, and an immigration adviser under the pilot scheme is contacted if advice on non-criminal immigration matters is required.

It must be remembered that some individuals may be under investigation in relation to immigration related criminal offences. The pilot scheme will not cover these cases. A client who is subject to a criminal investigation (in relation to an immigration offence) will continue to be entitled to advice and assistance from the Duty Solicitor Scheme operated by the Criminal Defence Service.

Further information regarding the pilot can be obtained from immigration.services@legalservices.gov.uk. Guidance on immigration offences can be found on the Immigration Law Practitioners website at [www.ilpa.org.uk](http://www.ilpa.org.uk)



# Community Legal Service – Financial Eligibility April 2006

The Community Legal Service (Financial) (Amendment) Regulations 2006 provide for the following changes to financial eligibility.

These changes will apply to all applications for funding, and to further assessments of certificates under reg 15 of the Community Legal Service (Financial) Regulations 2000, made on or after 10 April 2006:

1. An uprating of gross and disposable income limits for all levels of service.
2. Payments from the Independent Living Fund disregarded from the means test for all levels of service.
3. New passporting benefit for Controlled Work immigration and asylum matters.
4. Capital limit for Controlled Legal Representation (CLR) asylum claims increased from £3,000 to £8,000.

These changes are summarised below.

## Gross Income Cap and Disposable Income Limit

For all applications and further assessments made on or after 10 April 2006, the new gross income limit is £2,350\* per month. Clients with income above the gross income cap will be refused funding without the need for a full assessment. Where a client's gross income falls within the gross income limit, disposable income will need to be assessed. The new disposable income limit for applications and further assessments made on or after 10 April 2006 is £649 per month.

The new gross and disposable income limits apply to all levels of service, and represents a 2.7% increase on the 2005 rates. (See LSC Manual volume 2, part F for definitions of gross and disposable income and further guidance).

## Eligibility Limits

### All levels of service

Gross Income Limit	Increased from £2,288 per month to £2,350* per month
Disposable Income Limit	Increased from £632 per month to £649 per month
Capital Limit	£3,000** CLR Immigration cases only £8,000 All other levels of service

\* A higher limit applies for families with more than 4 children with £145 added for the 5th and each additional child.

\*\*This limit is to remain at £3,000 for the time being with the intention to raise it to £8,000 following consultation on an appropriate contribution scheme, later in the year.

There continues to be no contribution system for Legal Help, Help at Court, Family Mediation, Help with Mediation or for Legal Representation before the Asylum and Immigration Appeal Tribunal; and the High Court in respect of an application under s 103A of the Nationality, Immigration and Asylum Act 2002. Clients are ineligible if their income or capital exceeds the above limits.

For all other forms of Legal Representation and for General Family Help, a client with disposable income of £279 or below per month and capital of £3,000 or below will not be required to pay any contributions. A client with disposable income between £280 and £649 inclusive per month will be liable to pay a monthly contribution of a proportion of the excess over £275. Such contributions will be assessed in accordance with the following bands:

Band	Monthly disposable income	Monthly contribution
A	£280 to £411	1/4 of income in excess of £275
B	£412 to £545	£34 + 1/3 of income in excess of £411
C	£546 to £649	£78.70 + 1/2 of income in excess of £545

So if disposable income is £315 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 £426 per month, the contribution would be in band B, the excess income would be £15 (£426 - £411), the monthly contribution would therefore be £39, ie £34 + £5.

If the disposable income was £565 per month, the contribution would be in band C, the excess income would be £20 (£565 - £545), the monthly contribution would therefore be £88.70, ie £78.70 + £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 the uprating of 2.2% to the Income Support (General) Regulations 1987, the following increases to the allowances for dependants will apply automatically to financial assessments in respect of applications for funding on or after 10 April 2006:

Partner	Increased from £138.83 to £141.87 per month
Child aged 15 or under	Increased from £190.67 to £198.06 per month
Child aged 16 or over	Increased from £190.67 to £198.06 per month

## Pensioners Capital Disregard

There are additional capital disregards for pensioners on low incomes, which apply to all levels of service. The monthly disposable income limit at or below which the disregard will apply, has risen from £272 per month to £279 per month. The pensioners capital disregard therefore applies where either the client (or spouse/partner where an aggregated assessment is carried out) is aged 60 years or over at the date of computation and their disposable income is less than £279 per month.

See LSC Manual volume 2, part F for the full table of disregards. The supplier calculator will automatically complete this calculation

for you where the client's disposable income falls below this lower income limit.

### Independent Living Funds

Payments from the Independent Living Funds (ILF) will be exempted from the means test for all new applications and further assessments made on or after 10 April 2006. There are two ILF funds. Both are trusts managed by a Board of Trustees and financed by a grant from the government (they are independent and discretionary). Firstly, the Independent Living (Extension) Fund which administers payments to clients of the original Independent Living Fund (prior to April 1993). This is closed to new applications. Secondly, the Independent Living (1993) Fund which is open to new applications from severely disabled people who meet its eligibility criteria and are permanently resident in the UK.

People living with a disability can use payments from the ILF to pay for employing a care agency or personal assistant(s) to help with personal and domestic tasks. These include bathing, toileting, washing and dressing, cooking, shopping, laundry, cleaning and other household tasks, and also for personal care when socialising or at work. Prior to 10 April 2006, for controlled and licensed work, ILF payments were disregarded from the means test as a matter of guidance as set out within LSC Manual volume 2, part F, section 5.4. By adding ILF payments to the list of disregarded allowances in regs 19 and 33 of the Community Legal Service (Financial) Regulations 2000, the disregard is now formalised for all levels of service.

### New Passporting arrangements – NASS payments

From 10 April 2006, new passporting arrangements apply to clients in receipt of

payments under s 95 of the Immigration and Asylum Act 1999 from the National Asylum Support Service (NASS). Clients directly or indirectly in receipt of NASS payments will automatically qualify on income and capital for immigration and asylum matters of controlled work, ie Legal Help, Help at Court and Legal Representation before a) the Asylum and Immigration Tribunal; and b) the High Court in respect of an application under s 103A of the Nationality, Immigration and Asylum Act 2002 (CLR immigration and asylum).

Previously clients were informally passported on income for controlled work but a capital assessment was required to establish financial eligibility. For controlled work immigration and asylum matters only, an assessment is no longer necessary, simplifying the means assessment process for suppliers and clients. For other controlled work matters, ie non-immigration/asylum cases (for example family work), capital will still need to be assessed for clients in receipt of NASS payments for the time being.

Suppliers are reminded that the requirements in relation to obtaining evidence of support remain unchanged. Clients in receipt of Income Support, Income Based Job Seekers' Allowance or Guarantee State Pension Credit automatically qualify on both income and capital for all levels of service.

### Rise in Capital limit for Asylum Claims

The capital limit will rise from £3,000 to £8,000 for CLR asylum matters. This level of service remains non-contributory. The capital limit for CLR immigration matters remains £3,000 for the time being with the intention to raise it to £8,000 following consultation on an appropriate contribution scheme, later in the year.

### Forms Update – Masterpack

Updated packs have been issued and sent to suppliers who hold a copy of the forms Masterpack. Updated forms are also posted on the LSC website. The CW1 form will be updated later in the year, the current version of the forms should continue to be used in the intervening period: for clients in receipt of NASS payments please enter 'Nil – NASS in payment' in the income and capital sections of the form for asylum and immigration cases.

An updated Keycard (No 42) providing a step-by step guide to assessment accompanies this article and is available from the LSC Website. The suppliers' calculator and accompanying guidance (LSC Manual volume 2, part F) also located on the LSC Website has been updated accordingly for applications on or after 10 April 2006. For more information regarding the changes please contact: Grace Nicholls  
Means Assessment Policy Adviser  
29-37 Red Lion Street  
London WC1R 4PP  
Tel: 020 7759 1776

### Criminal Defence Service – Financial Eligibility April 2006

There is no change to the financial eligibility limits under the Criminal Defence Scheme for CDS advocacy assistance and advice and assistance, following an uprating in October 2005. An updated Keycard (No 42A) reflecting an increase to the allowances for dependants following the uprating of 2.2% to the Income Support (General) Regulations 1987, accompanies this article. The new allowances apply to applications for funding made on or after 10 April 2006.

# Community Legal Service

Keycard No 42 - Issued April 2006

Community  
Legal Service



## 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 the Asylum and Immigration Tribunal, and before the High Court in respect of an application under s 103A of the Nationality, Immigration and Asylum Act 2002; 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 F of volume 2 of the LSC Manual. References in this card to volume and section numbers e.g. volume 2F-section 1 are references to the relevant parts of that guidance. Suppliers should have regard to the general provisions set out in guidance volume 2F-section 2, particularly those set out in sub paras 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 10 April 2006.

## Eligibility Limits

The summary of the main eligibility limits from 10 April 2006 are provided below:

Level of Service	Income Limit	Capital Limit
Legal Representation before the Asylum and Immigration Tribunal; and before the High Court in respect of an application under s 103A of the Nationality, Immigration and Asylum Act 2002.	Gross income not to exceed £2,350** per month  Disposable income not to exceed £649 per month.  Passported if in receipt of Income Support, Income Based Job Seekers' Allowance, Guarantee State Pension Credit or NASS Support.	£3,000 (immigration matters) £8,000 (asylum matters)  Passported if in receipt of Income Support, Income Based Job Seekers' Allowance, Guarantee State Pension Credit or NASS Support.
Legal Help, Help at Court, Family Mediation, Help with Mediation, and *Legal Representation in Specified Family Proceedings, ie 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 £2,350** per month  Disposable income not to exceed £649 per month  Passported if in receipt of Income Support, Income Based Job Seekers' Allowance or Guarantee State Pension Credit. [Also passported for Legal Help and Help at Court (asylum and immigration) matters if in receipt of NASS Support].	£8,000  Passported if in receipt of Income Support, Income Based Job Seekers' Allowance, or Guarantee State Pension Credit. [Also passported for Legal Help and Help at Court (asylum and immigration) matters if in receipt of NASS Support].

\* May be subject to contribution from income and/or capital (see volume 2F-section 3.2, paras 1–5).

\*\* A higher gross income cap applies to families with more than 4 dependant children. Add £145 to the base gross income cap shown above for the 5th and each subsequent dependant child.

Additional information regarding the financial eligibility criteria is also provided in guidance volume 2F-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 2F-section 4.2, paras 1–5).

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

**Step Three** For any cases which are not 'passport' determine the gross income of the client, including the income of any partner, (see guidance in volume 2F-section 5). Where that gross income is assessed as being above £2,350 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. Certain sources of income can be disregarded and a higher gross income cap applies to families with more than 4 dependant children.

**Step Four** For those clients whose gross income is not more than the gross income cap (see guidance in volume 2F-section 3). 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. 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 10 April 2006

Work related expenses for those receiving a wage or salary	£45
Dependants Allowances	
Partner	£141.87
Child aged 15 or under	£198.06
Child aged 16 or over	£198.06
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 2F-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 the Commission which may grant – see volume 2F-section 3.1, para 6.)

**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 2F-section 3.2, paras 1–5). For ease of reference the relevant income contribution table is reproduced below. Such contributions should be collected by the supplier (see guidance in volume 2F-section 3.2, para 4).

Band	Monthly disposable income	Monthly contribution
A	£280 to £411	1/4 of income in excess of £275
B	£412 to £545	£34 + 1/3 of income in excess of £411
C	£546 to £649	£78.70 + 1/2 of income in excess of £545

# Criminal Defence Service

Keycard No 42a - Issued April 2006



## 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 LSC Manual. References in this card to volume and section numbers, eg 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-para 2 regarding the documentation required when assessing means. This keycard and the guidance are relevant to all applications for funding made on or after 10 April 2006.

## Eligibility Limits

The summary of the main eligibility limits from 10 April 2006 are provided below:

Level of Service	Income Limit	Capital Limit
Advice and Assistance	<p>Disposable income not to exceed £92 per week</p> <p>Passported if in receipt of Income Support, Income Based Job Seekers' Allowance, Guarantee State Pension Credit, Working Tax Credit plus Child Tax Credit* or Working Tax Credit with disability element*</p> <p>*Gross Income not to exceed £14,213 for passporting.</p>	<p>£1,000 for those with no dependants</p> <p>£1,335 for those with one dependant</p> <p>£1,535 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 £194 per week</p> <p>Passported if in receipt of Income Support, Income Based Job Seekers' Allowance, Guarantee State Pension Credit, Working Tax Credit plus Child Tax Credit* or Working Tax Credit with disability element*</p> <p>* Gross Income not to exceed £14,213 for passporting.</p>	<p>£3,000 for those with no dependants</p> <p>£3,335 for those with one dependant</p> <p>£3,535 for those with two dependants with £100 increase for each extra dependant</p> <p>Passported if in receipt of Income Support, Income Based Job Seekers' Allowance or Guarantee State Pension Credit.</p>



# Step by Step Guide to Assessment

Criminal  
Defence Service



## 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 (a)

Determine whether the client is directly or indirectly in receipt of either Income Support, Income Based Job Seekers' Allowance or Guarantee State Pension 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.

## Step Two (b)

Assess gross income for all other cases. Determine whether the client is directly or indirectly in receipt of Working Tax Credit along with Child Tax Credit or Working Tax Credit with disability element. The client will be 'passported' on income where gross limit £14,213 not exceeded.

## 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 month) from 10 April 2006

Dependants Allowances	
Partner	£32.65
Child aged 15 or under	£45.58
Child aged 16 or over	£45.58

## 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.

# Civil Guidance & Development

## UN Security Council Resolution

Following on from the article in *Focus* 44 (page 17, April 2004) this article serves as a brief reminder to practitioners as to the effect and implications of United Nations Security Council Resolution 1390.

This resolution is given force in the United Kingdom under the Al-Qa'ida and Taliban (United Nations Measures) Order 2002 (SI 2002/111 as amended by SI 2002/251). To re-iterate, the effect of this provision is to prohibit the making available of any funds, which includes legal aid, to persons listed in the United Nations list without first obtaining a licence from HM Treasury. Failure to obtain the appropriate licence is a criminal offence.

Please note that the list is not a static document and names can be added and removed. If funding has been provided prior to the insertion of the individual concerned you will still need to obtain the appropriate licence. You can check the list via the UN and Bank of England web sites, the links being as follows:  
[www.bankofengland.co.uk/publications/financialsanctions](http://www.bankofengland.co.uk/publications/financialsanctions)  
[www.un.org/Docs/sc/committees/1267/1267ListEng.htm](http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm)

It is possible to subscribe to an e-mail alert via the Bank of England web site specifically for financial sanctions. Queries regarding the procedure in obtaining a licence should be addressed to  
 The International Financial Services Team at HM Treasury,  
 1 Horse Guards Road,  
 London SW1A 2HQ,  
 tel: 020 7270 5550.

Any queries regarding this article should be sent to Malcolm Bryant; e-mail [malcolm.bryant@legalservices.gov.uk](mailto:malcolm.bryant@legalservices.gov.uk).

# Consultation on CLS Guidance Changes

The next update of the LSC Manual is due to be published in June 2006. We are currently consulting on some draft amendments to certain sections of the guidance contained in volumes 1 and 3 of the Manual. A brief description of the issues under consideration is given below, but for full details see the draft changes which can be found in the civil consultation part of the CLS section of our website ([www.legalservices.gov.uk](http://www.legalservices.gov.uk)).

Generally we have tried to keep revisions to the Manual to a minimum in this update, bearing in mind that there may be more major reforms and consultations later this year arising from the Carter review and from the need for new contracting arrangements for April 2007.

## Authorities for Counsel

The process for granting prior authority for Queen's Counsel or more than one Counsel is now handled by the Special Cases Unit. We have taken the opportunity to expand and clarify the guidance on this area currently contained in Sections 5.2 and 5.3 of Section D in volume 1 of the Manual. The draft guidance reflects the approach currently taken by SCU. We have also made more prominent the point that Queen's Counsel are only obliged to seek prior authority when they propose to act as such, and are always able to act as and be paid at Junior rates if they wish.

## Apportionments and Excluded Work

We have expanded our guidance on apportionments (between funded and non-funded parties) and excluded work as well as clarifying our guidance on contact centre fees.

## Disbursements in Family Cases

Our guidance regarding the use of experts in public law children proceedings and on the costs of treatment, training and therapy have been updated following the experience of the recent Funding Code amendment covering this point and the House of Lords decision in the case of *Re G*. Our approach to these issues was set out in detail in the article on pages 12–13 of *Focus* 49 published in December last year. This guidance has now been set out in revised Sections of what is currently Section 5.7 to 5.9 of Section D of volume 1 of the Manual.

## Alternative Funding – Public Interest Cases

Our guidance at Section 5.5 of the Funding Code decision-making guidance in volume 3 covers the balance between public and private funding in cases which may affect such substantial groups of people. It is becoming clear that alternative funding is one of the most important considerations in many high priority cases including environmental challenges. Whilst we have no current plans to make substantive changes to this part of the guidance we would be particularly interested to hear from experienced practitioners about how the guidance is working and whether changes would be desirable either to the guidance itself or to its practical application by the Special Cases Unit.

## Non-Family Mediation

As we do not have a quality mark for non-family mediation (other than community mediation), we have amended our guidance to refer to the accreditation system for mediation providers operated by the Civil Mediation Council (CMC). Our intention is that we would normally expect mediators funded by the CLS to be provided by a CMC accredited organisation, although we do not propose to apply this as an absolute rule. The draft guidance attached would replace the list of mediation providers previously set out in Section 7.6 of the Funding Code guidance. We have inserted a reference to the National Mediation helpline to assist clients in locating a suitable mediator for their case. Subject to consultation we propose to make similar changes to the specific clinical negligence guidance in Section 18.8.

## Proceeds of Crime Act (POCA) 2002

Our guidance on CLS funding for procedures under POCA is at Section 23

of the Funding Code decision-making guidance. This has been substantially revised for two reasons. Firstly, we have sought to reflect the important changes introduced by the Serious Organised Crime and Police Act 2005 which has established new powers for the court to release frozen assets to cover legal costs. This new power substantially reduces the need for public funding in many POCA cases. Secondly, case law now appears clear that POCA proceedings are civil, not criminal, proceedings for the purposes of the European Convention on Human Rights. For this reason it is no longer appropriate to apply an interests of justice merits test for these cases which will from now be considered under the General Funding Code. We have placed on the website a paper explaining the basis for the changes that we wish to make and revised draft of the guidance currently at Section 23 of the Funding Code guidance. Appropriate references will also be inserted in the guidance on the interests of justice test at Section 26.

## Minor family amendments

Some minor changes have been made to the Family Decision Making Guidance to cross refer to the general guidance on the merits criteria applicable to appeals and to re-order the guidance on the Inheritance (Provision for Family and Dependants) Act 1975 (paragraphs 20.29 and 20.53).

Please send any responses to the consultation by 21 April 2006 to Colin Stutt, Head of Funding Policy, 85 Gray's Inn Road, London WC1X 8TX or by e-mail to [colin.stutt@legalservices.gov.uk](mailto:colin.stutt@legalservices.gov.uk)

# Public Interest Advisory Panel Summaries

The Public Interest Advisory Panel (PIAP) reports to the LSC on cases that are considered to raise public interest issues. These reports are then taken into account by the LSC 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](http://www.legalservices.gov.uk)

Summaries of Panel reports are no longer included in the Manual. They are however available on the guidance section of the LSC's website on the page headed 'Public Interest Reports'. New reports will continue to be published in *Focus*.

Summaries of cases considered by the Panel were contained in *Focus* 32-49. A summary of the cases that 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 that 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/06/334

### Nature of Case

Proposed application to the Court of Appeal for permission to appeal in an application for judicial review in relation to alleged delays of the local authority in approving accommodation for the applicant, pursuant to its duties under s 117 of the Mental Health Act 1983, following a Mental Health Review Tribunal's decision for the applicant's deferred conditional discharge. It was alleged that this delay led to the applicant's unlawful detention in hospital in breach of arts 5 and 8 of the European Convention on Human Rights (ECHR). The remedy now being sought was damages only.

### Report of Panel

The Panel considered that there was wider public interest in pursuit of the judicial review proceedings, as they have the potential to clarify the duty of public authorities under s 117 of Mental Health Act 1983, particularly in the context of art 5 of the ECHR. It was recognised that there were inconsistent domestic decisions concerning the extent of an authority's duties in the period before discharge from hospital. This issue had particular significance in the light of recent ECHR decisions accepting the possibility of

a positive obligation on the part of a state in relation to art 5, but leaving open for further consideration the extent of an authority's obligations to ensure the full effectiveness of an MHRT's decision. The case also highlighted the importance of a coherent approach from all the public authorities concerned to ensure that patients subject to deferred conditional discharge are not deprived unnecessarily of their liberty. The Panel considered that the case had the potential simultaneously to clarify the legal position and to bring practical benefits for applicants in this position, and generally to increase public confidence in the process.

### Conclusion

Significant wider public interest.  
Rating: Significant.

## PIAP/06/335

### Nature of Case

Proposed action against the police for wrongful arrest/false imprisonment, trespass, assault, malicious prosecution and aggravated damages arising, in particular, from an allegation that a police officer who had investigated an incident was a relative of one of the applicant's alleged attackers.

### Report of Panel

The Panel considered that any wider public interest in this case arose from the nature of the proceedings, rather than from any specific benefits to the public that would arise from a successful outcome, and that that form of public interest was already recognised by section 8 of the Funding Code through the less strict test for cost benefit in cases involving allegations of serious wrongdoing or abuse of position by public officers.

The Panel noted that even if successful, these proceedings were unlikely to develop the law, since it was not necessary for case law to establish that police officers should not be involved in investigations involving members of their own families. There was therefore no significant wider public interest under the Funding Code: this case should be considered under section 8.

### Conclusion

No significant wider public interest.

## PIAP/06/336

### Nature of Case

Proposed action for Judicial Review of the decision of British Waterways Board (BWB) to seek possession of land used as a local boatyard. The applicant claims BWB failed to take into account a Planning Inspector's report on the hardship the closure would cause the residential boating community, and claimed that the closure would infringe their human rights.

### Report of Panel

The Panel were not persuaded that there was wider public interest in the pursuit of judicial review proceedings. Whilst the Panel expressed sympathy for the applicant's position, the Panel concluded that the challenge was fact specific and that, even if successful, the outcome was unlikely to establish any wider legal principle. In relation to direct benefits to people other than the applicant, although it appeared from documentation supplied with the application that a number of other individuals may have relied upon the area for mooring and a greater number for its dry dock facilities, this was not sufficient to establish a significant wider public interest in a successful outcome of the proceedings, particularly given the possibility of travelling to access alternative facilities.

### Conclusion

No significant wider public interest.

## PIAP/06/337

### Nature of Case

An application to defend proceedings for an injunction under s 3 of the Protection from Harassment Act 1997 arising from protests against an organisation conducting animal experiments. The applicant denies that her conduct amounts to harassment and challenges the terms of the injunction sought in relation to its scope and interference with her rights under arts 10 and 11 of the ECHR.

**Report of Panel**

The Panel accepted the importance to the applicant of receiving public funding to defend these proceedings but did not consider that the case had significant wider public interest under the Funding Code. Although the case involved issues of significance, in particular the use of the Protection Against Harassment Act against protesters and the fact that the interim injunction in the proceedings would bind anyone who came to have notice of that order and its terms, these issues had already been decided by the courts, and the Panel did not consider that the case had the potential to establish any new points of law. In particular, the Panel did not consider that the case contained issues not present in *EDO MBM Technology Ltd v Axworthy*. The Panel further considered that whether or not the interim or any final order breached the applicant's rights under arts 10 and 11 would be a question specific to the terms of that order, and no wider issue arose in relation to arts 10 or 11.

**Conclusion**

No significant wider public interest.

**PIAP/06/338****Nature of Case**

Proposed appeal to the House of Lords, in a matter involving an action against the police and Mental Health legislation (s 136(1) and s 139(1) and (2) of the Mental Health Act 1983), on the question of whether proceedings brought without leave of a higher court, where such leave is required (as under s 139), are a nullity. Permission to appeal had been granted by the House of Lords.

**Report of Panel**

The Panel accepted that there was a significant wider public interest in this case, since resolution of the point at issue would extend clarification of the law to the position under other statutory provisions requiring leave of the court in order to bring proceedings, although its practical significance might be restricted to cases where the limitation period had expired with respect to commencing fresh proceedings. The Panel noted that the potential public interest of the case would have informed the decision of the House of Lords to grant permission to appeal. In such a situation it would require exceptional circumstances for the Panel to take a contrary view on significant wider public interest.

**Conclusion**

Significant wider public interest.  
Rating: Significant.

**PIAP/06/339****Nature of Case**

A proposed application for damages for harassment under s 3 of the Protection of Harassment Act 1997. The applicant is also proposing action under the Torts (Interference with Goods) Act 1997 for damages to property. The applicant is of Sikh religion and is bringing the action based on the alleged mistreatment by her former parents-in-law after she moved into their home on the marriage to their son.

**Report of Panel**

The majority of the Panel considered that there was significant wider public interest in the action for damages under the Protection of Harassment Act. The Panel recognised the cultural aspects to this case and the potential for it to impact on the Sikh community. Concern was expressed as to whether the courts would wish to extend the use of the 1997 Act into the sphere of domestic relations in this way. However, the majority Panel view was that this action represented a novel application of the 1997 Act, which was consistent with the broad terms in which it had been drafted, and which could provide a remedy for sufferers of abuse within a domestic context that fell short of clear incidents of physical violence or other criminal conduct. Concern was also felt by some members of the Panel as to the extent to which a successful outcome could be of benefit to others, given that the action was within the county court and the decision would be fact specific. The majority of the Panel, however, accepted that publicity arising from the case had the potential to make a significant impact on the wider problem of domestic abuse, whether through deterring abusers or highlighting a new route for victims to seek protection and redress.

**Conclusion**

Significant wider public interest.  
Rating: Significant.

**PIAP/06/340****Nature of Case**

A proposed action to commence proceedings against a local education authority (LEA) in negligence and under the Race Relations Act 1976 for indirect discrimination in relation to their treatment of the applicant, who claims the LEA has indirectly discriminated against him on the grounds of his race in relation to his special educational needs and subsequent treatment following permanent exclusion from school.

**Report of Panel**

The Panel considered that this case had significant wider public interest in highlighting how practices in local authorities' treatment of special needs children may contribute to the disproportionate high exclusion levels of black pupils, which the Panel recognised as an issue of great importance. The Panel considered that, whilst further statistical evidence might be required before the claim proceeded, the overall figures for exclusions suggested that indirect discrimination was likely to be arguable in some way. The Panel were also of the view that the case had the potential to provide needed clarification of current guidance as to when children should be stated.

**Conclusion**

Significant wider public interest.  
Rating: High.

**PIAP/06/341****Nature of Case**

Proposed petition to the House of Lords for permission to appeal against a decision of the Court of Appeal overturning a finding of liability in a road traffic claim, where it had been alleged that the defendant had breached a duty of care towards the applicant, who was aged four years, in failing to make allowance for her lack of road sense.

**Report of Panel**

Whilst the Panel expressed deep sympathy for the family in this matter, the Panel did not accept that the case had the potential to extend or clarify the existing law in this area. The case appeared to turn on its own facts and the Panel considered it unlikely to establish any more general principles in relation to a motorist's duty of care.

**Conclusion**

No significant wider public interest.





# Payment Dates

The proposed payment dates for the second half of 2006 are set out below. These dates may be subject to amendment, but we will inform you of changes in advance where possible.

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 the regional office or the Solicitors/Counsel Settlement section on 020 7759 0260 but no earlier than the day before the proposed payment date. 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.

Contract Payments	1st Settlement of the Month	2nd Settlement of the Month
Thursday 6 July	Thursday 13 July	Thursday 27 July
Friday 4 August	Thursday 10 August	Thursday 24 August
Wednesday 6 September	Thursday 7 September	Thursday 21 September
Thursday 5 October	Thursday 12 October	Thursday 26 October
Monday 6 November	Thursday 9 November	Thursday 23 November
Wednesday 6 December	Thursday 7 December	Thursday 21 December

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**To order back issues of *Focus*, please contact Neil McLeavey on 020 7759 1838 or [neil.mcleavey@legalservices.gov.uk](mailto:neil.mcleavey@legalservices.gov.uk)**

**Focus** is produced by the Legal Services Commission's Communications Directorate, 85 Gray's Inn Road, London, WC1X 8TX (DX 328 London)

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