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new scheme begins
in January

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our opinion of
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The service provider newsletter of
the **Legal Services Commission**

focus

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Legal aid reform – the next steps

As we announce some important next steps in the legal aid reform programme, the goal remains simple: maximising access to quality legal aid services for the future and ensuring that we can continue to increase the number of people helped within a budget that is necessarily limited.

The reform programme is already well under way, with many significant changes in place, including fixed fees for many categories of law.

On Monday, 10 December we published a consultation paper, a policy paper and a cumulative impact assessment, giving legal aid providers and partners a clearer picture of the next steps as we move from where we are now to our proposed goal of a competitive market in the future.

We believe that moving to a competitive market for the majority of legal aid services is the best way to deliver quality services

at the best possible price. It would also give providers the advantage of an agreed price, which they have offered and which they know is profitable for them.

We are therefore now consulting on the principles of best value tendering and how it might work for criminal legal aid services. The importance of ensuring the quality of services for legal aid clients is set out in a policy paper which provides an important context for all our proposals.



Crime

> Best Value Tendering of Criminal Defence Services: A Consultation

We are consulting early on the principles of best value tendering and how it might work for criminal legal aid services because we want providers to have the opportunity to help shape any future system. If we decide to go ahead, we will hold a second consultation on the details of a tendering system during 2008.

We believe that setting prices through a competitive process, instead of, as now, the LSC setting them administratively, will result in a fairer and more sustainable system. In a competitive market we anticipate that the price of services could go up in some areas where local costs are high and come down in areas where costs are lower. We generally expect the total of all fees to remain stable.

We will hold consultation workshops for providers in the New Year and will also consult closely with representative bodies. The consultation ends on Monday 3 March 2008.

Impact Assessment

> A Cumulative Impact Assessment: Legal aid Reform Programme (Phase 1)

The impacts on providers of the 2007 reform programme to date have been assessed and published in this paper.

The data underlying the assessment assumes that providers will take no steps to change their business practices in the light of the reforms. In practice, providers are already changing the way they work and we therefore expect the real impacts to be reduced.

The assessment shows that, following the reforms already implemented, overall funding for criminal legal aid work will reduce by £23million and that 79% of crime providers can expect to see their income decrease. However, for 65% of those, the reduction will be less than 10%. Funding will reduce in every LSC region, with rural areas least affected and urban areas most affected.

The overall funding for civil legal aid will not change as the fee schemes have been designed to be cost-neutral. Without the reductions in the criminal budget, the civil budget would have been smaller.

Over half (56%) of civil providers would have increased their income had they been paid the new fees on their 2005/6 caseload. However, some civil providers (with London providers most affected) would have seen their income decrease. Of London providers, 57% would have been paid less on their 2005/6 caseload, although often the amounts involved are fairly small and the total amount spent in London would have been only 1% less. However, a majority of cases in all regions are conducted by providers who would have been paid more under the schemes – including 70% in London.

The cumulative impact assessment considers the impact of the reforms on providers overall and also, more specifically, the impact on particular groups such as those with a disability, or people from ethnic minorities.

Quality

> Assuring and Improving Quality in the Reformed Legal Aid System: a policy announcement

The LSC is committed to improving quality standards for legal aid clients. Quality remains at the heart of the reformed legal aid system and only those providers who deliver good quality advice will be able to work in legal aid in the future.

We will be implementing many of the key elements of the Preferred Supplier scheme over the next few years as an integral part of the reforms leading to our proposed goal of best value tendering. There will therefore be no need to introduce a separate Preferred Supplier scheme as we had initially proposed.

We will operate a strict quality threshold, measured by peer review, and providers will need to achieve a minimum Peer Review rating of 3 (Threshold Competence) to be eligible to bid for work in the proposed competitive market.

In some small categories it will not be possible to develop peer review, so alternative indicators of quality will be used.

What service providers should do next

The LSC encourages all interested parties to participate in the consultation process. Responses to the BVT consultation can be made online via our website, which is our preferred method, although we are also accepting hard copies.



@ CONTACT & INFORMATION

web: lsc website > about us > transforming legal aid

Quality Assurance Scheme impact survey

The LSC has joined forces with the Bar Council to conduct a comprehensive survey of all practising barristers in England and Wales.

The report *Legal Aid: A Market-Based Approach to Reform* recommended that a system of quality monitoring be introduced for advocates working in the criminal, civil and family courts.

As detailed in *Focus #54*, the LSC and Ministry of Justice have completed a joint consultation on the proposals for the Quality Assurance for Advocates (QAA) Scheme. The LSC is currently reviewing responses and a full report will be published in December 2007. These responses will inform the design of the pilot for criminal defence advocates, which we expect to start in mid-2008.

An initial Impact Assessment accompanied the consultation paper highlighting that, depending on the details of any scheme, it may present barriers to certain groups of advocates, such as those working part-time, sole practitioners, barristers who have taken a career break or those who work in rural areas.

However, to assess the impact of the scheme in any meaningful way, comprehensive and accurate data about those who may be affected is vital. Therefore we have joined forces with the Bar Council to conduct a comprehensive survey of practising barristers. The survey has been designed to ensure it captures all the data that might be needed for QAA and other LSC reforms, in one exercise.

Joint working with the Bar Council

In partnership with the Bar Council, the survey has been sent to all 14,853 practising barristers in England and Wales. It will provide a wide range of data on diversity, categories and volumes of work both private and publicly funded, as well as information on working patterns, career breaks, caring responsibilities and education.

This data, and data provided by the Law Society on solicitors with higher rights of audience, will feed in to the pilot design and also assist with evaluation. We anticipate that this data will enable us to identify a suitable representative sample of advocates to pilot the arrangements to test effectively and monitor for differential impacts.

This work is being funded by the LSC but the analysis of the data will be shared with the Bar Council and Bar Standards Board. The Chairman of the Bar Council, Geoffrey Vos QC, sent an accompanying letter with the questionnaire to all barristers, highlighting the importance of this joint exercise. He said: "The survey is important because it will enable both the Bar Council and the LSC to plan for the future on the basis of reliable up-to date data, much of which has been unavailable up to now."

@ CONTACT & INFORMATION

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New Litigators Graduated Fee Scheme

The new fee scheme will be introduced in the New Year, backed up with training and online services.

The new Litigators Graduated Fee Scheme (LGFS) comes into effect on 14 January 2008. The scheme applies to all new Crown Court cases obtaining Representation Orders on or after this date. Solicitors will be able to claim payment online for the first time, speeding up the claims process. Training on the new system began across all regions at the end of November.

Additional training material for claims will be posted on the LSC website from Monday, 14 January.

Under LGFS, litigators will receive a graduated fee for each case, determined by case type, offence type, length of trial and the volume of prosecution evidence. An increased payment will be made to firms representing more than one defendant. The scheme is similar to the Advocate Graduated Fee Scheme.

There is a special mechanism for dealing with complex cases that last 25–40 days and which meet Complex Crime Unit criteria.

In future, the LSC intends to consult on proposals for a Single Fee to establish a new payment system for both litigation and advocacy work.

Derek Hill, Director of the Criminal Defence Service, said: "The reforms will give litigators a chance to benefit directly if they work more efficiently and this means better value for public money, more money to spend on other areas of legal aid and more certainty for criminal defence solicitors."

More information on the LGFS, including a fee calculator, is available online at [lsc website > criminal defence service > consultations](#).

@ CONTACT & INFORMATION

web: [lsc website > criminal defence service > consultations](#)



Peer review and improving quality

Peer review continues to be at the heart of our reform programme and plays an important role in our drive to improve the quality of legally aided advice.

The commitment shown by peer reviewers is truly impressive. The Legal Services Commission values this commitment. There is general agreement that peer review is the best quality assessment tool and an excellent method of assisting firms and advisers to improve. Peer reviewers have further contributed to the development of quality improvement initiatives by producing a family of category-specific guides and by putting forward suggestions and ideas.

There are peer reviewers in eleven categories of law:

- > Action Against the Police
- > Community Care
- > Crime
- > Debt
- > Education
- > Employment
- > Family
- > Housing
- > Immigration
- > Mental Health
- > Welfare Benefits.

Peer Reviewers' Panels in Clinical Negligence, Consumer General Contract and Public Law are currently being developed.

Changes in peer review operations

There have been significant changes in the delivery arm of peer review. Stephen Dodds has taken over the role of Operations Manager and the team he leads has been restructured to mirror categories of law, provide greater clarity and deliver improved customer service.

Mita Patel oversees the team dedicated to crime reviews, while David Pashley leads the team responsible for Family and all other Social Welfare categories.

@ CONTACT & INFORMATION

web: lsc website > cds or cls > quality and performance > peer review

email: stephen.dodds@legalservices.gov.uk



Update on justice system initiatives

The aim of whole system initiatives work is to improve efficiency across the civil and criminal justice systems.

The LSC wants to achieve best value for money and continue to increase the numbers of people helped by working effectively and efficiently with partners across the whole justice system.

Achievements so far

Criminal Justice:
Simple, Speedy Summary (CJSSS)

CJSSS Local Implementation Teams are an ideal opportunity to engage with defence solicitors in helping to achieve a new system with the magistrates' courts and has resulted in an improvement in the relationship between solicitors and other Criminal Justice System (CJS) partners. The LSC has ensured that its CJS partners are aware of the reform programme, promoting the correct process for means testing and ensuring the process is as efficient as possible for defence solicitors.

Family Justice System

The LSC is participating with the Public Law Outline initiative as part of the national inter-agency steering group, and providing input from the legal aid perspective at a local level.

- Regional achievements
- > Devon and Cornwall have introduced staggered bail times in order to reduce waiting times
 - > in Manchester, the LSC is now represented on the Local Family Justice Councils performance sub-group, looking at sharing data and how efficiency can be improved

- > in Northumbria an indication of the success of the application is given following a 20-minute stand down to resolve the delay in processing legal aid applications
- > courts in Stafford now accept faxed applications to help reduce delays in processing forms
- > Sussex police have established a text message system to update defence solicitors on changes to bail conditions
- > defence solicitors in Gwent now receive the custody record upon arrival at the police station, reducing the waiting time.

Information online

Whole System Initiatives pages have been created on the LSC website. These pages contain:

- > our achievements
- > contact details for LSC regional leads for crime and family
- > notes from the July training sessions for duty solicitors on first appearances in extradition hearings. We are running a further training session on Monday 14 January. If you are interested in attending, please contact Chantal Beedell on 020 7718 8331.

@ CONTACT & INFORMATION

web lsc website > about us > transforming criminal legal aid > improving efficienc

General Criminal Contract

A high response to the General Criminal Contract has ensured full coverage across the country.

A total of 2261 legal aid providers applied for the new General Criminal Contract, ensuring full coverage for publicly funded defence services in police stations and courts across every region of England and Wales.

The application period for the new contract closed on Wednesday 31 October, but it was already clear earlier in the process that enough providers had applied to ensure full coverage.

The new six-month contract will apply to legal aid firms across England and Wales from 14 January 2008.

Criminal Defence Service Director of Policy Derek Hill, said: "We're pleased that the majority of firms have chosen to apply and that so many are willing to expand. We look forward to continuing a constructive dialogue with legal aid providers on the reform programme, particularly on best value tendering."

The applicants included 2171 of the LSC's current criminal legal aid providers. More than a third (37%) of these have indicated they are interested in expanding their legal aid work in their scheme area or other areas. A further 90 new providers also applied.

Legal Aid Minister Lord Hunt said: "I am very encouraged that so many providers expressed an interest in expanding their businesses - this is a very positive sign for the future of legal aid."

The January 08 contract will ensure that progress with legal aid reforms is maintained and will include:

- > new fixed fees for police stations and revised boundary areas
- > expansion of the Defence Solicitor Call Centre to include 'own client' work
- > expansion of CDS Direct to include those elements of 'own client' work suitable for telephone advice
- > introduction of the Very High Cost Case contracting panel.

The Litigators Graduated Fee Scheme (LGFS) will also be introduced on Monday 14 January (see page 3 for more information).

Providers should have already received confirmation from us if their application has been successful. We are currently assessing duty solicitor details and hope to be able to confirm slot allocation by Friday 14 December.

@ CONTACT & INFORMATION

[web](#) lsc website > cds > tenders > general criminal contracts

Working with the community and voluntary sector

Crispin Passmore, Director, Community Legal Service explains how the LSC works with Not for Profit (NfP) providers. The LSC invests £80m a year in the sector, with around 500 NfP providers delivering 201,875 acts of assistance.

The Compact is the agreement between government and the voluntary and community sector in England to improve their relationship for mutual advantage and community gain. The Compact exists because of a shared commitment to recognise distinct roles and build upon shared objectives and common values. The Compact applies in England but the LSC is also taking forward joint working initiatives with community and voluntary sector partners in Wales

The Legal Services Commission deals with the third sector in two ways:

- > there is a broad and wide ranging relationship in that agencies can help improve public services and engage with clients
- > there is a smaller group of agencies contracted to provide legal services. Our relationship with this group is narrower and governed by contract and procurement law.

The LSC is increasing the amount of work contracted to the sector. Recently we have focused on aligning our approach to our NfP and solicitor providers and encouraging better performance against targets, as part of our strategic objective to work with providers who deliver quality, value for money and client-focused services.

I have been a volunteer in a Citizens Advice Bureau, a CAB Trustee, managed a large Law Centre and been involved in other voluntary and community sector work as a trustee of another charity. I have seen first hand the importance of third sector engagement in the delivery of public services and the wider role that the third sector plays in public services. The sector is committed to meeting client needs; can play an ambassadorial role in promoting legal aid; and has the ability for innovation and piloting.

The LSC is committed to the Compact. We recognise the importance of the third sector not just in our procurement relationship but also in our commitment to consultation and client engagement.



We have our own Code of Practice on LSC Consultations, which includes the core principles of consulting widely with all stakeholders including the voluntary and community sector. We also seek to improve our engagement with community and voluntary sector groups that can represent clients' experiences, to ensure that legal aid clients can get access to the help they need.

LSC Chief Executive Carolyn Regan has published a statement on the Compact and its application in relation to legal aid procurement, consultation and client engagement. This can be viewed on the LSC's website.

@ CONTACT & INFORMATION

[web](#): lsc website > cls > civil areas of work > working for the voluntary sector

[email](mailto:cate.jolley@legalservices.gov.uk): cate.jolley@legalservices.gov.uk

[tel](tel:02077590426): 020 7759 0426

HMPS guidance to improve prison visits for defence lawyers

Published in October, *Legal Visits in Prisons: A Good Practice Guide*, sets out measures that prison and defence lawyers can take to make access more efficient.

The guide identifies good local practice and highlights how improvements can be made across the whole system by both prisons and practitioners. It has been circulated to all prison governors and directors.

It recommends:

- > closer working between prison staff and defence practitioners, using local user groups to raise and resolve issues
- > prison process changes including dedicated telephone booking systems and greater use of electronic booking systems
- > improved information for defence practitioners on booking arrangements and visits.

HMPS suggests that user groups could be based on existing Crown Court user groups and it has sent copies to Crown Court centre managers and LCJBs, encouraging them to extend their remit, if necessary, to cover prison visits. Alternatively, prisons could set up their own user groups – a model that has been used successfully at HMP Birmingham.

User groups would tackle issues like:

- > increasing capacity – promoting use of video links for legal visits, drawing on good practice in a number of prisons; back-to-back visits where lawyers visit more than one client; options for alternative visiting times
- > entry clearance – getting agreement between the prison and frequently visiting lawyers, enabling them to get quick entry clearance
- > speed – finding ways to speed up legal visits with earlier appointments, reduced waiting time at the prison and more time with clients
- > new initiatives – such as electronic booking systems
- > cancellations – working with firms to minimise overbooking and short notice cancellations.



The guide strongly encourages prisons to set up dedicated telephone booking systems for legal visits and recommends the use of online booking, taking account factors like:

- > the need to prioritise and commit adequate resources to the service
- > opening hours – for example, staggering legal visits and social visits to reduce queuing
- > setting local standards and targets.

Prisons are encouraged to produce an information leaflet for legal practitioners covering all booking arrangements, for example:

- > length and time of slots
- > arrangements for interpreters and for taking in electronic equipment like laptops
- > identification required from defence practitioners and interpreters
- > information on searching
- > cancellation arrangements
- > directions
- > feedback process – including information on the user group.

The guide is available to download from the LSC's website.

@ CONTACT & INFORMATION

web: lsc website > cds > criminal areas of work > prisons

email: steve.mcgowan@legalservices.gov.uk

tel: 020 7759 1004



Mental health legal services

Plans for the future of mental health legal services will focus on accessible, high quality advice.

People with poor mental health are a priority group for the LSC. They risk being deprived of their liberty under the Mental Health Act 1983 and experience a wide range of Social Welfare Law problems. The majority of advice funded by the LSC is representation at Mental Health Review Tribunals (MHRTs), where a patient has a right to challenge their detention.

The LSC is currently developing proposals to reform mental health legal services to provide more accessible, high quality and better value advice to clients. Key to achieving this will be to:

- > ensure best fit between supply and demand
- > review quality standards and their application
- > play a strategic role within the mental health system
- > create better links with social welfare law services.

An external advisory group comprising representatives from key stakeholder groups has met three times so far to contribute to policy development.

The group includes:

- > three mental health service users
- > Mental Health Lawyers Association
- > The Law Society
- > Institute of Mental Health Act Practitioners
- > MIND
- > Department of Health
- > NHS
- > Mental Health Act Commission
- > MHRT Secretariat.

In addition, we recently held regional mental health provider workshops. These events largely focused on training for providers on the Fixed Fee Scheme and Specification. Attendees also took part in a fruitful series of workshops, which invited their ideas on ways of improving access, quality and value for money.

The LSC plans to consult on proposals in spring 2008. We will provide further details about the consultation timetable once it has been finalised.

Please submit any enquiries about this work to the contact details below.

@ CONTACT & INFORMATION

email: oliver.toop@legalservices.gov.uk

Financial sanctions

The LSC would like to remind practitioners of the effect of United Nations Security Council Resolution 1390.

This Resolution is given force in the UK under the Al-Qa'ida and Taliban (United Nations Measures) Order 2002 (SI 2002/111, as amended by SI 2002/251).

It creates an offence where funds are made available to any person or organisation listed in the United Nations financial sanctions consolidated list, without first obtaining a licence from HM Treasury. This includes making a payment to a solicitor acting for a listed person under legal aid.

The offence is in making the payment and applies to all levels of funding in criminal as well as civil matters.

In civil cases, applications made by a listed person will not be processed until an original copy of the licence is provided to the Commission

The list is updated regularly. Remember though that if funding has been provided prior to the listing of the individual concerned you will still need to obtain the appropriate licence for the period in which they are listed.

Please also note that as of 24 October 2007, responsibilities for all aspects of financial sanctions policy has been transferred from the Bank of England's Financial Sanctions Unit to the dedicated Asset Freezing Unit set up by the Treasury.

This transfer of responsibilities will not affect the validity of any pre-existing licences granted by the Bank of England in its capacity as agent for HMT under any of the financial sanctions regimes.

All queries regarding financial sanctions should be addressed to: Asset Freezing Unit, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ. Telephone: 020 7270 5454.

Email: assetfreezingunit@hm-treasury.gov.uk

@ CONTACT & INFORMATION

web: www.un.org/sc/committees/1267 and www.hm-treasury.gov.uk/financialsanctions

email: john.baker@legalservices.gov.uk (LSC Special Cases Unit)

News in brief



Evaluating the Training Contract Grants Scheme Stakeholders' views on the scheme

Since 2002 the LSC has awarded 590 grants to help with the training and recruitment of future legal aid lawyers.

Researchers from the University of Westminster School of Law have been commissioned to undertake an independent evaluation of the Training Grants Scheme, to inform our development of the scheme in 2008. A dialogue has already begun and will continue with key stakeholders. The researchers have been seeking feedback from participants in the scheme as well as other stakeholders.

@ CONTACT & INFORMATION

email: michelle.leung@legalservices.gov.uk

web: lsc website > about legal aid > working in legal aid > training contract grants

Name change for Community Legal Service Direct

Community Legal Advice is the new name for Community Legal Service Direct. The name has changed so that all of the Legal Services Commission's public-facing services operate under the same name and people recognise them as a single service.

Research was conducted to establish the best name for our services and the one people responded to and trusted the most was Community Legal Advice. The helpline number has not changed – it remains 0845 345 4345. There is a new website at www.communitylegaladvice.org.uk, which is now much easier to use.

For more information or to order new materials please contact claire.parr@legalservices.gov.uk

community
legal advice

Focus to move online

As detailed in previous issues of *Focus*, the publication is moving online next year.

This follows comments and concerns raised by readers about the costs associated with producing and distributing a magazine. The move online will also see *Focus* being produced more frequently than the current quarterly schedule.

Focus is already available to download online at lsc website > cls > focus. We will update this page with information about the move online as necessary, and news will also feature in the LSC Update email alert. More information about the email alert is available from lsc website > about us > our publications.

Errata: CLA family goes live

Information published in *Focus #54* about a pilot scheme for providing specialist family legal advice over the phone contained some inaccuracies.

Callers to Community Legal Advice can now access specialist family legal advice over the telephone following the start of a 12-month pilot scheme that started on 1 October 2007. Initial signs are very positive – in the first two weeks 177 New Matter Starts were opened, with providers offering advice across a range of family issues.

The pilot will help to establish what kind of family problems can be addressed over the phone. Where it is not appropriate for clients to receive telephone advice Community Legal Advice will refer clients to face-to-face advisers. Community Legal Advice also provides specialist advice in debt, welfare benefits, education, employment and housing, to which clients can be referred if a provider can't help.

Correction

In *Focus #54* (pages 11 and 25) we published incorrect details of the pilot and the providers that successfully bid for the pilot contracts. We apologise for this error, and to the three successful bidders:

Howells Solicitors (LLP), based in Sheffield and Rotherham, are the largest providers of publicly funded family law services in the Yorkshire and the Humber region. They currently offer telephone advice in welfare benefits, debt, housing and employment law for Community Legal Advice.

Allan Rutherford Solicitors, of Norwich, specialise in family work. They also provide a free domestic violence legal advice helpline for out of hours help 24 hours a day, 365 days a year.

The Children's Legal Centre, based in Colchester, is an independent national charity concerned with law and policy affecting children and young people. The centre has an Education Legal Advocacy Unit that has a national contract to offer advice and assistance on education via Community Legal Advice.

@ CONTACT & INFORMATION

email: family@legalservices.gov.uk

web: www.communitylegaladvice.org.uk

Inside a Community Legal Advice centre

Natalie Purvis, Senior Caseworker in the Newcastle office, shares her experience of the first Community Legal Advice centre in England.

The CLA centre in Gateshead opens its doors at 9am, making available their drop-in advice sessions. These operate on Monday, Tuesday and Thursday. The centre also runs a telephone advice line that operates Monday to Friday 10am – 3pm.

A first-time visiting client has an initial meeting called a diagnostic interview. This is where the caseworker talks to the client and identifies what their problems are. This lasts approximately 15 minutes. If the issues can be resolved through basic information or signposting to another organisation the client will possibly 'exit' the service at this point. If specialist legal advice is required the adviser will make the client the appropriate appointment with one of the many specialists within the CLA centre.

One particular client arrived at the centre with housing issues. Accompanied by his wife and three children, they had been in the UK for four years and English was not his first language. Their caseworker dealt with his possession hearing at Court in dealing with his rent arrears to his private landlord. A Welfare Benefits Caseworker assisted with his Tax Credits and Jobseekers Allowance. And finally a Money Advice Caseworker assisted in dealing with his non-priority debts and also his backdated claim for housing and council tax benefits.

It was impressive to see such level of commitment from the volunteers and caseworkers that keep the client as the focal point of their services and strive to establish the CLA centre as a 'one stop shop' in the advice



sector. Helping clients with their multiple legal problems under one roof was never going to be easy – but the graft and commitment seen at the Gateshead centre shows it does work.

In the first six months Gateshead CLA centre has assisted over 2,000 people and of these almost 1,300 have been helped with specialist legal issues by the team of caseworkers and solicitors there.

It was clear that the client's needs are very much at the core of the CLA centre and essentially the future structure of legal aid in establishing the concept of the 'holistic remedy' in the advice sector.

Family mediation

New Family Mediation and Family Fee Schemes should promote an increased number of referrals to family mediation by family solicitors.

The Legal Services Commission is planning how to implement many of the recommendations put forward by National Audit Office (NAO) and Public Accounts Committee (PAC) reports to encourage greater numbers of referrals to family mediation.

As part of the new schemes, introduced in October 2007, the LSC has revised the family fee structure to provide greater incentives for solicitors to make referrals to family mediation. The NAO in its report: *'Legal aid and mediation for people involved in family breakdown'* and the subsequent PAC report *'Fifty-first report of session 2006–07'* highlighted that we should encourage greater referrals to mediation,

as it can provide faster, cheaper and less adversarial resolution of family disputes than involving the courts.

The mandatory referral point has been the main pivotal mechanism for generating referrals to mediation under our previous contracting arrangements. Our intention is that the new fee scheme will encourage earlier referrals, as solicitors will receive the same fixed fee regardless of whether they make a referral to mediation or not. If a client is referred to mediation at an early stage and agreement is reached then the full fee, including the settlement payment, will be paid to the solicitor provided they have done work under level two.

The LSC has also revised the list of mediation exemptions and the way they are applied. As a result, we have amended the domestic abuse exemption so the responsibility for considering whether domestic abuse is a bar to mediation will now be with the mediator except in certain circumstances. We have also reduced the existing proceeding exemption from eight to six weeks. All these measures should ensure an increased use of family mediation.



@ CONTACT & INFORMATION

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web: [lsc website](#) > [cls](#) > [payrates and schemes](#)

Wider remit for the Financial Ombudsman Service

From 6 April 2007, under the Consumer Credit Act 2006, the remit of the Financial Ombudsman Service was extended to cover complaints against all holders of standard consumer credit licences issued by the Office of Fair Trading.

As well as lending and hiring – including credit arranged by retailers (eg store cards), home credit and pawn broking – the Ombudsman Service now covers complaints about ancillary activities such as debt collecting, debt counselling and debt adjusting (when related to consumer credit agreements), and the operation of a credit reference agency.

This extension of cover helps to plug a gap in financial Alternative Dispute Resolution. The service can now deal with almost all disputes about financial services including banking, insurance (both life and general), mortgages, pensions, savings and investments, credit cards and store cards, loans and credit, hire purchase, financial advice and stocks, shares, unit trusts and bonds.

The Financial Ombudsman Service was set up by law and is free to consumers. Where appropriate, it can order redress up to £100,000 for financial loss and/or pain and suffering, distress and inconvenience. The consumer does not have to accept the ombudsman's decision – they are free to reject it and go to court – but if accepted by the consumer, ombudsman decisions are binding on both parties.

@ CONTACT & INFORMATION

tel: 020 7964 1400 (technical advice desk)
0845 080 1800 (consumer advice)

Immigration and Asylum guidance

The LSC has recently published Frequently Asked Questions and Funding Code guidance relating to immigration and asylum, available on the website.

In September the LSC ran a number of training events across England and Wales for providers on the introduction of the new Immigration Specification and Graduated Fee Scheme on 1 October 2007. The LSC has now finalised and published the latest Frequently Asked Questions (FAQs) in relation to immigration and asylum matters, incorporating many of the questions raised at these events.

The FAQs will be regularly updated and suppliers should ensure that they refer to the most recent published update, available at [lsc website > cls > civil areas of work > immigration and asylum](#). We have also published the latest Funding Code Decision Making Guidance on Immigration – section 29. This is available at [lsc website > cls > civil legal aid eligibility > the funding code](#).

Both documents should be read in conjunction with the Unified Contract, Civil and Immigration Specifications and Civil Codes Guidance, all of which are available on the LSC website.

New email address for immigration policy team

Should providers have any queries on the Immigration Specification, the Graduated Fee Scheme or any of our published guidance, a new email address is available to contact the immigration policy team: immigration-services@legalservices.gov.uk.

If you have any queries concerning individual funding applications or operational matters, providers should continue to contact NIAT via their dedicated referral line on 020 7718 8091.

Detention contracts

The current contract schedules for detained cases: fast track, on site surgeries and police station telephone advice, expire on Monday, 31 March 2008. We are currently re-tendering for these advice services and details can be found on our website at [lsc website > cls > tenders](#).

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Shelter: our view of legal aid reforms

Diana Fawcett is the Head of Shelter Services. Here she gives her views about the impact of legal aid reforms on the charity, and the people it supports. She considers how Shelter will engage with the LSC in the future, and how the organisation is adapting to changes and challenges.



Diana Fawcett
Head of Shelter Services

Shelter was set up to give advice and support to people in housing need in the 1960s and that is what we have been doing for more and more people over the last 40 years. From our voluntary beginnings, we are now a recipient of over £3m of income from the LSC annually, which funds some of the services that we offer from our 50 or so offices all around the country. Our core business and our national reputation is for giving expert housing advice directly to clients and also to other professionals.

Negative opinion

We should say right from the start that we don't like some aspects of the reforms. We think that the new fixed fee regime means that charities like us who do a lot of complex homelessness work will struggle to cover our costs. We don't want to cherry pick cases. We don't turn anyone away from our services because of non-eligibility. If necessary we use our own voluntary funding to cover their costs, but we want to be able to survive financially in the new world.

While the move to far fewer larger contracts nationally may make sense financially for the LSC, what does it mean for the future of good small locally based providers who may find it hard to survive, and what happens to choice for the client when there is only one large provider in any one area?

Positive outlook

However, we believe that the changes being introduced also offer some real opportunities for both providers and clients.

The move to offering multiple areas of law has to be good news for service users. For people to be able to approach one provider with the expertise to advise them across the whole range of their problems has to be better for them than being signposted across town between agencies. Moving towards an allocation of funding according to need rather than historic patterns of supply and getting specialist agencies to work in partnership also have to be positive steps forward.

We should say right from the start that we don't like some aspects of the reforms...

Adapting to change

So how is Shelter adapting to the new world? We want to be in a position to submit compelling and competitive bids for LSC contracts so that we can continue to do the work that we think is so important. We recognise that we need to change in some ways to do be able to do this, so over the past 10 months we have been taking a very hard look at our services and taking some difficult decisions.

We have had to scrutinise our costs and take steps to reduce them. We have reviewed in detail our service operating models. What is the client journey through a Shelter service, how can we improve this experience and the outcomes while delivering it at a lower cost? Controversially, we have reviewed staff terms and conditions and we are planning to reduce the resources dedicated to management and administration.

We have introduced a new case management IT system and we are developing the capacity to deliver across the range of social welfare law areas. We are reviewing our working practices to improve the effective hours that our case workers can deliver. We are also working to develop partnerships with other providers and submitted our first Community Legal Advice centre bid recently. We are also bidding for New Matter Starts across multiple areas of law in the current round.

This scale of change is challenging and some aspects of it are not surprisingly very unpopular with staff. However, as one member of staff said at a recent consultation meeting, "Shelter is not a club for its employees". We are here to provide services to some of the most deprived and socially excluded people in society.

Campaigning

Shelter provides services but it is also a campaigning organisation. Our vision is that "Everyone should have a home" so we continue to campaign for more and better homes, and on issues like affordability, social justice and access to justice. We will continue to say uncomfortable things publicly but at the same time we can be business like, effective, nimble and responsive to our funders so that we can continue to deliver good quality front line services.

... However, we believe that the changes being introduced also offer some real opportunities for both providers and clients.

Shelter



Lord Hunt
Minister for Legal Aid

Lord Hunt of Kings Heath shares his views on legal aid reforms

Legal aid is a vital public service that is fundamental to social and legal justice. Since its introduction nearly 60 years ago, the legal aid scheme has helped millions of people resolve a whole range of problems through legal advice and representation. It has helped safeguard some of society's most vulnerable and disadvantaged people and ensured access to justice for those who could not otherwise afford it.

We have built a very successful legal aid system, regarded by many as the best in the world, and the Government is committed to ensuring its future so that it can continue to deliver for the people who need it. That's exactly what the legal aid reform programme is designed to do: to ensure that we can build on the success of recent years and continue to increase the number of people helped.

I am, of course, aware that the reform programme makes this a rather controversial time to be the Minister for Legal Aid. I have used my first few months in the job to meet legal aid providers and their representative bodies and I have many more such meetings lined up. I am listening closely to the views being expressed and I understand some of the concerns about the pace of change. The LSC has already adjusted the timing and content of many of the proposals in response to points you have raised so far and I am committed to ensuring that we continue to listen and to take your views on board as new elements of the reform programme are developed.

I must stress, however, that the Government is absolutely committed to this reform programme. We believe it is the most effective way to ensure for the future that people have access to quality legal services when they need it.

We are seeking three outcomes from the reform programme: quality, access and value for money. Much of what I have read and heard about legal aid reform has been focused on the final point – value for money – which has often been interpreted as cost-cutting. In fact, it is about making best use of the funds we have available and rebalancing within the budget to increase the funding for civil legal aid. And it is about setting clear priorities, such as cases involving children and domestic violence.

Achieving value for money is crucial – because without it, we can't have quality or access either. All public services have to work within a budget that is necessarily limited because it comes from taxpayers, and legal aid is no different. Our priority, and indeed our responsibility, is to help the maximum number of people possible because we are buying quality services which represent value for money.

The fact is that I am not in a position to be able to demonstrate that at the moment. We are paying very different amounts for the same types of cases in the same areas. We are often still paying for the number of hours worked rather than for what is delivered for legal aid clients. We have average case costs which are increasing substantially in some categories of law with no sensible explanation. And we need to rebalance the available funding so that more money can be used to help people with their civil problems.

I want to be able to say with confidence that I know we are helping the greatest number of people possible and that is why I am absolutely committed to making these reforms work.



We are seeking three outcomes from the reform programme: quality, access and value for money. Much of what I have read and heard about legal aid reform has been focused on the final point – value for money – which has often been interpreted as cost-cutting.



I absolutely agree that we need to work to improve the efficiency of the justice system as a whole at the same time as reforming legal aid. This is a real priority for the Government.

We are now well into the implementation stage of the reform programme, with fixed fees for Magistrates' Court work in urban areas in place since April and new fee schemes for many areas of civil work since October. We see fixed fees as an interim step on the way to commissioning legal services through competition, when the market would set the rate rather than an administrative process. I'm sure you will agree that this has to be a good thing.

In a competitive market, the LSC would set out the services it needs to buy on behalf of people in a particular area. Then it would be up to you to decide if you want to provide that and at what price. It is only once you are offering the price you believe is fair and that we know offers the best value available, that we will be able to demonstrate that we have a value for money system that is helping the greatest possible number of people.

The LSC has now published its ideas on how a competitive process might operate, particularly for criminal work where Best Value Tendering would be introduced first, and will be sharing its thinking with you soon to allow time for early discussion and consultation on both the principle and how such a process might work.

I want to finish by saying a few words about two recurring themes in my discussions

so far with providers and their representative bodies: inefficiencies in the administrative processes relating to legal aid; and inefficiencies across the justice system as a whole. On the first, I want to reassure you that, based on the changes being made to how services are commissioned, the LSC is re-working the processes involved so that they are much simpler for everyone concerned. Some of the resulting proposals are included in the current consultation on Delivery Transformation. The aim is to reduce the administrative burden for providers and make significant savings in the LSC's costs too.

On the second point, I absolutely agree that we need to work to improve the efficiency of the justice system as a whole at the same time as reforming legal aid. This is a real priority for the Government. We are already seeing some successes, such as new court procedures which are reducing delays, and I know the LSC is also working very actively with partners in the Local Criminal Justice Boards to identify inefficiencies and find effective solutions. Of course, there is plenty more to do and I will be working with my colleagues in the Ministry of Justice and in other government departments to ensure that this work is given the priority it deserves. I would also encourage you to do what you can in your own local engagement with different



parts of the justice system to flag the issues and work towards solutions.

I am looking forward to meeting more of you during the next few months and I know that the LSC is meeting with many of you too. I encourage you to continue to work with us, to let us have your views and to respond to consultations. Together, we have achieved so much for the people who depend on legal aid. I look forward to working with you to ensure that we can do even better for them in the future.

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. More information on the Panel is in the LSC Manual and on the LSC website.

Summaries of Panel reports are no longer included in the Manual. They are however available on the LSC website under [cls > Guidance on our decision making > Public Interest Reports](#). A summary of cases referred to the Panel since publication of *Focus 54* is set out below. These are taken from the full reports of the Panel but omit client details. In each case the Panel gives an opinion as to whether the case has a significant wider public interest. Those that do are usually assessed in one of three categories, namely 'exceptional', 'high', or simply in the general category of 'significant' wider public interest.

PIAP/07/389

Nature of case

Claim by a wheelchair user against Her Majesty's Court Service under the Disability Discrimination Act 1995 for damages and a declaration.

Report of Panel

The Panel noted that the applicant had not been prohibited from accessing the magistrates' court to accompany her son, who was the defendant to criminal proceedings, and her complaints related more to incidental matters that appeared to arise from failures in communication.

However, the Panel considered it unacceptable that there should be any such problems relating to access where criminal proceedings were involved.

In relation to the issues arising from this case, on a practical level, the Panel considered that a successful outcome would be likely to lead to the defendant at least developing an internal protocol for obtaining the full necessary information from those calling the relevant office to enquire about access to the courts.

More generally, while the defendant had broadly accepted the applicant's version of events, it was not clear that it had admitted liability in principle. The Panel considered that the publicity generated from a successful outcome against such a defendant would emphasise that the duty to make reasonable adjustments under the Disability Discrimination Act is to be taken seriously in all cases.

Conclusion

Significant Wider Public Interest
Rating: Significant

PIAP/07/387

Nature of case

Proposed claim against a Metropolitan Borough Council for negligence and/or breach of statutory duty in respect of alleged failure of the Social Services Department.

Report of Panel

The Panel accepted that establishing a duty of care on the part of a social services department on behalf of those in its care would be of significant wider public interest, and noted that the defence had specifically denied the existence of such a duty of care.

However, the Panel considered that the nature of the case was such that the outcome was likely to be very fact specific, and that the case appeared to have serious difficulties on its facts.

In particular, the Panel felt that the Independent Social Worker's Report, which would be key to a successful outcome, was not sufficiently helpful to the case. The report did not support the applicant on a number of important issues and, in any event, did not address the necessary Bolam test.

Whilst the Panel expressed sympathy for the applicant's position, they did not consider that this case had the potential to establish any general principle that would be of wider benefits for other users of social services.

Conclusion

No Significant Wider Public Interest

PIAP/07/390

Nature of case

Application is to defend proceedings issued by the proposed defendant to the personal injury claim, for a declaration that he is not liable for any personal injuries.

Report of Panel

The Panel considered that the defendant's claim represented a clear abuse of process in seeking to deny the applicant the full limitation period in which to investigate his potential claim for damages.

The Panel considered of great importance that this attempt was resisted. Were the opponent to succeed in its application, the insurance industry as a whole would inevitably quickly become aware of this, and it would be likely that pressure would be brought to bear on potential claimants for personal injury either to waive their rights to make a claim or to agree an early settlement below the proper value of the claim.

Conclusion

Significant Wider Public Interest
Rating: High

PIAP/07/386

Nature of case

Proposed appeal to the Court of Appeal against a decision of the Administrative Court in respect of a decision by the West Yorkshire Police to extend detention in custody to seek advice from the CPS on the appropriate charges.

Report of Panel

This case had previously been before the Panel, under reference PIAP/07/370, when the Panel's view was that there was no Significant Wider Public Interest.

The Panel noted the change in circumstance since the previous referral that permission to appeal had been granted by the Court of Appeal.

However, the reasons stated in that Order indicated that the permission was based essentially on merits; in fact they expressly stated that the recent amendments to section 37(7) of the Police and Criminal Evidence Act 1984 ('the Act'), relevant to this application, reduced the importance of the appeal for future cases. Although the Panel could appreciate the desirability of funded representation before the appellate courts, that was not of itself a relevant criterion in determining whether a case had significant wider public interest.

It was noted that the guidance issued by the Director of Public Prosecutions under section 37A of the Act had been reissued in February 2007 without amendment, despite being the subject of criticism in the decision at first instance of this case. The Panel did not, however, accept that this was a relevant matter in relation to this appeal; the issue at stake was simply one of whether or not the applicant had been unlawfully detained.

Legal aid at work – how two families' lives have been transformed

Focus examines how settlements achieved through legal aid cases have changed two families' lives.

Around 2 million people a year – often the most vulnerable and disadvantaged – receive help with their legal problems by turning to legal aid providers for advice.

Among the millions who testify to the difference legal aid can make to people's lives are the Hughes and the Francis families.

Both Nathan Hughes and Richard Francis have cerebral palsy, caused by mistakes made by their local hospitals as each of them was born. Cerebral palsy often leaves the sufferer paralysed and with brain functions severely affected. People with the condition need round-the-clock care for the rest of their lives, which are usually much shortened.

Without legal aid, these two families were struggling to cope. With legal aid, they found hope for the future. Neither family could have afforded to fight their cases without public funding.

Legal aid funding of their respective cases allowed their solicitors (Anne Winyard at Leigh Day and Marek Bednarczyk at Hart Brown) to win seven-figure financial settlements for the boys – a large sum of money, but essential to fund their care needs.

Conclusion

No Significant Wider Public Interest

Recent Points of Principle

CRIMLA 77 Claiming for post-charge work carried out in the police station
4 May 2007

Point of Principle

Firms have a choice as to how to claim for work carried out, after charge, in the police station, either on the representation order or as part of the police station claim. The wording in the guidance in the Criminal Bills Assessment Manual was permissive, rather than prescriptive ("may" rather than "must") because, in cases where there was a change of solicitor, it will only be possible to claim under the work type which that firm has carried out. In different cases, this may be either the investigations class or proceedings.

Nathan Hughes

Nathan's family won a court settlement from North East London Strategic Health Authority.

The settlement meant:

- > the Hughes family could move from Dagenham in Essex to rural Devon
- > a new house with specially adapted quarters for Nathan attached
- > a 24-hour care presence for Nathan.

Nathan has been integrated into a mainstream school nearby. It's clear that he and his family's lives are much improved.

Says his mother Yve: "Before, we all lived in a small end-terrace house in Dagenham which, for a big family and with Nathan to care for, was very difficult. Now we have space to live and to look after Nathan properly.

"He's becoming so much more independent now. In fact, he chucks us out of his accommodation when he wants to be on his own! He goes out with his carers all the time now and he loves watching the surfers at the beach."

Nathan's parents' lives have changed, too. Yve used to be the full-time carer, meaning spare time with her husband Paul was limited. Now they know that Nathan is well cared for, they can focus more on themselves and their four other children and grandchildren.

"Without legal aid, we wouldn't be where we are today", Yve says. "Before, life was just about living day-to-day, just surviving. Now we have a great quality of life."

Richard Francis

Now 17, Richard was left with severe cerebral palsy from birth due to negligence by Cambridge Military Hospital in Aldershot, Hampshire. He can't talk, walk or fend for himself, and sometimes has to be fed through a tube into his stomach.

As with Nathan's case, the settlement for the Francis family only came after 14 years of legal and personal struggles.

Richard's dad Brian says, "Before, we struggled. We had to carry Richard up and down the stairs, which was very difficult. It doesn't bear thinking about what would have happened if we'd fallen."



Now the Francis family home is two homes knocked into one. The money allowed them to completely convert the house according to Richard's needs:

- > they widened all the doors and moved walls to ensure Richard's wheelchair could always get through
- > they installed a lift that can take Richard between floors while still in his chair
- > they have H-frame hoists above his bed and his bath, which allow Richard to be lifted in and out
- > a fully equipped van lets the family (Mum Janette, Brian and younger brother Sam) take Richard with them wherever they go.

Janette remains as Richard's primary carer, and Brian has retired from his council job. The money helps them meet all the care needs and heavy mortgage payments without worry.

Janette Francis says the family is in no doubt about what the settlement means: "We'd rather live in a shed if we could have had Richard running around, probably giving us problems the way a 17-year-old usually does.

"But I hate to think where we'd be without the settlement and without legal aid for our case. We couldn't care for him the way we do now."

Reforms for the future

Continuing to help people access legal aid and advice, and providing fair access to justice, is the driving force behind current legal aid reforms and the LSC's vision for the future.

The reform programme is designed to build the future of the legal aid service on three key outcomes for people like the Hughes and the Francis families: quality, access and value for money.

Lord Hunt, the Minister for Legal Aid, shares his views on the reform programme on pages 12 and 13.

About *Focus*

Focus is sent automatically to all LSC account holders free of charge. It is usually published four times a year. It is not strictly quarterly, as it is produced whenever the LSC needs to communicate important information to the profession rather than to a rigid timetable.

Changes to the production and delivery of *Focus* are scheduled for next year. More information is available in *Focus* #54 (page 3). You will be kept updated about the changes through the LSC Update email and via the *Focus* page on the LSC website (about us > our publications).

While *Focus* contains guidance, the LSC Manual should be referred to for definitive information.

Focus is distributed using the names and addresses of all LSC account holders, details of which are held on the LSC's Master Index database.

If you have not received a copy of *Focus* it may be because you have not alerted the Master Index Section to changes to your name, address or DX. Please make sure you send any relevant changes in writing to the Master Index Section and include your LSC account number.

It is important that *Focus* is seen by everyone in your firm who is involved in LSC work, so copies of this publication should be made as required.

Focus editions 39 to 54 are available for download as PDFs from the LSC website. Older issues can be found in the Archive section of the LSC website. If you require assistance to obtain copies of *Focus*, please contact Verity Cork using the contact details listed below.

If you have any questions regarding the articles that appear in *Focus*, please refer to the contact details included with each article. If there are no contact details, or for other editorial questions or requests for extra copies, please contact the editor.

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Payment dates for January to June 2008

The proposed payment dates for the first half of 2008 are set out in the table below. These dates may be subject to amendment, but notification of changes will be provided in advance where possible. Contact details for the LSC's Master Index and Settlement Sections are given below.

Contract Payments	1st Settlement of the Month	2nd Settlement of the Month
Monday 7 January	Thursday 10 January	Thursday 24 January
Wednesday 6 February	Thursday 7 February	Thursday 21 February
Thursday 6 March	Thursday 13 March	Thursday 27 March
Friday 4 April	Thursday 10 April	Thursday 24 April
Tuesday 6 May	Thursday 8 May	Thursday 22 May
Thursday 5 June	Thursday 12 June	Thursday 26 June

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 account. 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, as opposed to 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. Details of the amount due to you can

be obtained by contacting either the regional office or the Solicitors/Counsel Settlement Section, 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.

Names, addresses, DX, fax and telephone numbers and bank details for BACS payments are held on the LSC's Master Index database. Please help keep us up to date and make sure that you inform the Master Index Section of relevant changes relating to your firm or chambers in writing, either by letter or fax.

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The LSC delivers legal aid and services through two schemes: the CLS and CDS.

Community
Legal Service



Criminal
Defence Service

