

Legal aid reform remains on course as judicial review challenges are withdrawn or substantially rejected

Following five judicial review challenges to the legal aid reform programme, the programme continues as planned.

- Fixed fees will be introduced as planned in October.
- The Very High Cost Cases policy remains in place.
- LSC has shown “due regard” to our statutory responsibilities in respect of race equality issues.
- Fixed fees for travel and waiting at magistrates’ court remain as set.
- Consultations have been conducted lawfully

Applicant	Challenge	Outcome	LSC Comments
The Black Solicitors Network (BSN) and Society of Asian Lawyers (SAL) issued proceedings. The Commission for Racial Equality and the Law Society joined the proceedings.	Sought to set aside the paper <i>Legal Aid Reform: the Way Ahead</i> , on the basis that the LSC failed to publish a cumulative Race Equality Impact Assessment including the likely impact of BVT, even though we had agreed to provide an REIA as the policy was developed..	Challenge withdrawn during the course of the hearing. Mr Justice Burton ordered the BSN and SAL to pay 70% of the LSC and Ministry of Justice's (MoJ) costs, including the cost of the July 19 hearing.	The LSC and MoJ will not enforce costs against the BSN and SAL. We look forward to working closely with the BSN, SAL and other stakeholders to continue the reform programme. We do not accept the Law Society’s suggestions that BSN and SAL achieved their goals before withdrawing proceedings. Mr Justice Burton made clear in awarding costs to the MoJ and LSC that the Government’s position is not materially different after the hearing. The LSC had already committed to publishing a cumulative Impact Assessment alongside our consultation on Best Value Tendering.
The Law Society	Sought to set aside the arrangements for a Very High Court Case panel again on the basis of inadequate regard to race equality issues.	The case was withdrawn by the Law society shortly before the hearing. Costs are yet to be determined by the court.	The policy remains intact and the tender closed today, 27 July. Hundreds of applications have been received.
Hull and Portsmouth solicitors firms	Seeking to set aside the revised fees in magistrates’ courts for the Hull and Portsmouth urban areas.	Mr Justice Sullivan refused permission on the papers. The firms have renewed their applications for permission, which are likely to be heard in September.	This challenge does not affect the rest of England and Wales where the revised fees have been in operation since April 2007. Although the Hull firms bringing the challenge chose to withdraw from Beverly Magistrates Court, services to clients are being maintained by other local firms.

The Law Society	Seeking to set aside the LSC's unilateral power to amend the Unified Contract ,in particular to prevent the changes planned for October 2007.	Mr Justice Beatson's decision does not affect the new fees being introduced through an amendment to the unified contract's specification from 1 October 2007. However, the Judge accepted that the amendment clause was not sufficiently precise in respect of changes to the "technical specifications" as defined in the 1996 Regulations. This definition relates to quality and performance levels e.g. peer review and key performance indicators rather than the new provisions for fixed fees.	The new fixed fees for civil legal aid cases will be introduced as planned from October 2007. Fixed fees are a desirable and necessary step in the move to a competitive market. The new fee schemes will help providers to prepare for competition, when they will be bidding on the basis of a fixed fee for a specified amount of work. The legal aid reforms are specifically about maximising access to legal aid for the future. By achieving best value for money and rebalancing the overall budget to provide more funding for civil work we can continue to increase the numbers of people helped.

Threatened JR not proceeded with

The Law Society	Pre-advice advocate letter on Asylum and Immigration fee scheme alleging failure to conduct a lawful consultation.	The case was withdrawn at the pre- action stage after the LSC provided the Law Society with a detailed response disputing their allegations.	It must be assumed that the Law Society on receiving the LSC's reply to their pre action protocol letter were advised by their solicitors that they did not have an arguable case.
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