

## Equality Impact Assessment – LSC Virtual Court Pilot

### Introduction

The LSC is committed to promoting equality and diversity within our services. As a public body, the LSC has a vital role to play in delivering quality outcomes to diverse communities.

Public bodies, including the LSC, have a legal obligation to promote race, gender and disability equality. We have a general duty to have “due regard” to the need to eliminate unlawful discrimination and promote race, gender and disability equality, and secondly we have a specific duty to conduct an Equality Impact Assessment that will assess and consult on the likely impact of any specific proposal on any particular group when formulating a proposal

When conducting this equalities impact assessment we have relied on guidance produced by the Equality and Human Rights Commission. This best practice guidance is also reflected in the LSC’s own impact assessment standards and in our **Single Equality Scheme**, which can be found on the LSC website

[http://www.legalservices.gov.uk/aboutus/how/specialised\\_publications.asp](http://www.legalservices.gov.uk/aboutus/how/specialised_publications.asp)

In addition to its legal duties, the LSC also has to meet certain Public Service Agreements (PSA) including **PSA 15** – *Addressing the disadvantages that individuals experience because of their race, disability, age, sexual orientation, religion or belief* and **PSA 24** - *Consistent collection, analysis and use of good quality ethnicity data to identify and address race disproportionality in the CJS.*

### Duties of the Legal Services Commission

#### **Race**

Public authorities in Britain have a legal duty to promote race equality. This means that they must have due regard to how they will:

- eliminate unlawful racial discrimination
- promote equal opportunities
- promote good relations between people from different groups

The LSC also has a specific duty to conduct race equality impact assessments of our policies in relation to the public duty to promote race equality and within this, to identify whether there is a differential and adverse impact on particular racial groups.

#### **Disability**

The Disability Equality Duty came into force on 4 December 2006. The LSC Single Equality Scheme sets out the actions that the LSC will be taking to

promote disability equality for legal service providers and the clients they serve.

When carrying out our functions, the LSC must have due regard to the duties placed upon us by the Disability Discrimination Act 2005. These are to:

- promote equality of opportunity between disabled people and other people
- eliminate discrimination that is unlawful under the Disability Discrimination Act
- eliminate harassment of disabled people that is related to their disabilities
- promote positive attitudes towards disabled people
- encourage participation by disabled people in public life
- take steps to take account of disabled people's disabilities, even where that involves treating disabled people more favourably than other people.

The LSC is also under a specific duty to conduct disability equality impact assessments of its policies in relation to the public duty to promote disability equality and within this, to identify whether there is a differential and adverse impact on disabled people and other people.

The LSRC collects information on whether the people with ownership or managerial control of contracted offices are ill/disabled, however there are a low number of firms where ill/disabled people hold majority managerial control, analysing impacts at a category level is unlikely to show statistically significant results.

### **Gender**

The Equality Act of 2006 places a statutory duty on all public authorities, when carrying out their functions, to have due regard to the need to:

- eliminate unlawful discrimination and harassment
- promote equality of opportunity between men and women.

This general duty came into effect on 6 April 2007. From 6 April 2007, the LSC has been under a specific duty to conduct gender equality impact assessments of its policies in relation to the public duty to promote gender equality and within this, to identify whether there is a differential and adverse impact on people of different genders.

The Legal Services Research Centre holds information on the gender of people with ownership or managerial control of offices that hold a Unified Contract.

### **Age equality**

The Legal Services Research Centre holds information on the age of people with ownership or managerial control of offices that hold a Unified contract. We do not believe that the proposals will have any differential impact on people based on their age. We would be interested to hear from any organisations with any evidence which confirms or denies this.

**Religion and belief**

The LSC does not hold any information on the religion and beliefs of clients or people employed by providers of publicly funded legal services. We do not believe that any of the current proposals will have any differential impact on people based on their religion and beliefs. We would be interested to hear from any organisations with any evidence which confirms or denies this.

**Sexual orientation**

The LSC does not hold any information on the sexual orientation of clients or people employed by providers of publicly funded legal services. We do not believe that any of the current proposals will have any differential impact on people based on their sexual orientation. We would be interested to hear from any organisations with any evidence which confirms or denies this.

**Name of policy to be assessed.**

This is an interim equality impact screening for the Legal Services Commission's element of Virtual Court Pilot.

This pilot is being led by the Office of Criminal Justice Reform, (OCJR), who have produced an initial equality assessment for the project. Please refer to Marsha Frederick at the OCJR Project Delivery Unit for a full EIA of the project.

**What is the aim and outcomes of the project?**

The Office of Criminal Justice Reform (OCJR) will be running an extended Virtual Court pilot for 12 months, starting in 2009. In a Virtual Court hearing the defendant stays in the police station and within 3 hours of being charged is linked by video to the court. An electronic file sharing system shares documents.

The LSC is responsible for ensuring that the defendants' rights to justice are met by paying for representation by a defence solicitor at the court hearing. To enable this we are proposing the introduction of a Virtual Court Fixed Fee. In London the fee is £200 + VAT during office hours and £240 +VAT out of office hours and outside London £150 +VAT during office hours and £180 + VAT out of office hours. The Virtual Court fee includes travel and waiting.

Representation will be delivered through Advocacy Assistance, a non-means tested form of legal aid, which will be limited to Virtual Court hearings.

The Virtual Court is being piloted in South East London and North Kent .The main objective of the pilot is to build a sufficient evidence base to establish the benefits and costs of the Virtual Courts to support, potentially, a full roll-out across London and consider whether a wider, national roll out would be appropriate.

An initial EIA was conducted by the OCJR in 2007. Please refer to EIA Virtual Courts Project, produced by Marsha Frederick, OCJR Project Delivery Unit, for full outcomes. The outcomes will be monitored by OCJR through the action plan at section 11 of their EIA and we will monitor that this is taking place.

Outcomes would appear to neither hinder nor support other LSC policies.

The LSC have consulted on the contractual amendments required to undertake work in Virtual Courts and to put in place amendments to the Duty Solicitor Arrangements.

**Do you share responsibility for this project with another government department or organisation? If so who defines and implements it?**

OCJR own the overarching project.

The OCJR define and implement the pilot and have carried out an EIA. Please refer to EIA Virtual Courts Project produced by Marsha Frederick, OCJR Project Delivery Unit.

**Who are the key stakeholders in relation to the project and who is affected by the project?**

Defendants, police, HMCS, CPS, Probation, criminal defence providers and users of the Criminal Justice System will be affected.

Please refer to section 4 of EIA Virtual Courts Project produced by Marsha Frederick, OCJR Project Delivery Unit, for existing information on identifying groups likely to be affected by policy.

**Is there evidence that tells how the project is working?**

Dr Bernard Horsford, Chief Executive, Sankofa Exchange Ltd, produced an Equality Impact Assessment Report for the Virtual Court Prototype in September 2007.

**From the available evidence does the project have relevance for the following equality strands?**

The LSC has made initial assessment based on Age, Race, Disability, Gender, Religion or belief, Sexual Orientation. The evidence from the findings of the Equality Impact Assessment produced by Dr Horsfield Chief Executive, Sankofa Exchange Ltd, for the Virtual Court Prototype in September 2007 and the Virtual Courts Prototype project evaluation report produced for the London

Criminal Justice Board by Chris Thomas shows that the Virtual Court will have no equality impact.

An initial EIA was conducted in 2007. Key stakeholders such as the London Diversity Board, London Criminal Justice Board and Youth Justice Board were involved. There was also consultation with a learning disability charity to identify potential advantages to suspects, victims and witness with learning disabilities. The response from all participants was positive and it was concluded that there no equalities impact

Also see section 8 EIA Virtual Courts Project produced by Marsha Frederick, OCJR Project Delivery Unit.

The LSC conducted a six- week consultation on the Virtual Courts Contractual Amendments This closed on 10<sup>th</sup> October 2008 and a total of 12 responses were received.

In October 2008 the LSC wrote to approximately 400 providers who had conducted at least one case in one of the participating police stations in the pilot area – South East and Central London - inviting them to express interest in joining the pilot scheme.

In March 2009, after the revision to the fee structure, we wrote to all Crime Contract providers who had an office in the 9 London Boroughs participating in the pilot inviting them to join the Virtual Court Pilot Duty Solicitor Scheme for the borough where their office is located. The decision to initially limit invites to providers in a particular borough was to reduce the providers' travel and waiting times and also an attempt to ensure that legal advice and representation is provided to clients at the earliest opportunity. We wrote to 139 providers and received 59 expressions of interest to join the Virtual Court Pilot Duty Solicitor Schemes – 42.44%. The expressions of interest have come from diverse providers and both large and smaller firms.

The Virtual Court Pilot Project Board have also run 2 awareness events at Camberwell Green Magistrates Court which were well attended by diverse groups such as defence solicitors, community groups, lay magistrates, the judiciary, probation, court staff. At these events we gave a presentation on how legal advice and representation would work in the Virtual Court Pilot and engaged in a question and answer session

**Is any aspect of the policy intended to:**

- **Eliminate discrimination?**
- **Promote equality of opportunity?**
- **Promote good relations between different groups?**
- **Promote positive attitudes towards disabled people**
- **Encourage participation of disabled people in public life.**
- **Consider more favourable treatment of disabled people.**

We believe the proposed fee is fair because:

- It gives solicitors who take part an opportunity to claim both the police station fixed fee and the Virtual Court fixed fee for a single police station attendance of between four and six hours. The case would be disposed of within a single day
- It gives solicitors an opportunity to access additional work as the client funding is not means tested, nor subject to the Interests of Justice test
- It gives solicitors the opportunity to acquire new 'own clients'
- There are potential efficiency savings for defence firms

**Based on initial Screening is a full impact assessment required?**

We believe that there is little evidence to show that the pilot will have a negative or positive impact. The pilot will have stringent monitoring arrangements to test both hypotheses.

At the conclusion of the pilot a view will be taken as to whether a full impact assessment is required which will be informed by the pilot's results.

Please refer to EIA Virtual Courts Project produced by Marsha Frederick, OCJR Project Delivery Unit

We will endeavour to encourage diverse firms to take part in the pilot and monitor accordingly.

**If a full impact assessment is not required, please indicate the plans to monitor the implementation of this policy over the next three years?**

The virtual court pilot is scheduled for 12 months and as noted above the need for a full EIA will be considered then.

The time frame for monitoring EIA during the life of the pilot can be found at section 11 of EIA Virtual Courts Project produced by Marsha Frederick, – OCJR Project Delivery Unit. The LSC will monitor this EIA at the same point that the OCJR review their EIA. The next review point is 30th September 2009 when a short paper will be produced by OCJR to outline the findings of the Virtual Court process evaluation

The EIA review periods will be as follows:

Short paper	30.09.2009
Interim Evaluation	30.11.2009
Further interim report	04.01.2010
Final Interim report	01.03.2010
Full Evaluation	June 2010