

Civil Fee Schemes – National and Regional fees

General

1 Our starting point for the civil standard fee schemes is to impose national fees wherever feasible.

- It is our view that appropriate regional prices will be best set by competition. Existing differentials do not necessarily reflect a best value price. For example we would expect prices in some high cost areas where there are lots of suppliers to reduce after competition -this could include suppliers moving from other lower cost areas.
- We have the anomaly that prices tend to be higher at the moment in London – the very area where we will have most competition and expect prices to come down. On the other hand we may need to focus funding in other areas of the country where we find it more difficult to get suppliers to do the work
- Current price differentials between London/non London or indeed between other regions cannot, under an hourly rates system, be said to reflect different overheads for suppliers in different parts of the country. This is because the differentials in cost per case are largely a feature of the length of time the provider claims on the case.
- When you look at the distribution within regions –this tends to be almost as wide as distribution between regions. In other words, there are very cheap and very expensive suppliers in every region but the proportions vary.

2 Given a national fee as a starting point, we have then reviewed each scheme to decide what the impact of this might be. Whilst we would not want to maintain current price differentials in the longer term, it is important that we maintain enough supply to provide sustainable access during the transition to competition.

3 We have looked at various factors:

- Longer term policy drivers –e.g. what is the right balance of work/ funding between London and other regions.
- The possible impact of national rates on providers and through them on access to services by clients. This includes factors such as the number of cases dealt with providers those whose current average costs are above or below the fees.

In some cases, this has led to us moving away from the desired model of a national fee in the interests of sustainability in the short term.

TFF Replacement

5 Here we have stayed with a national fee –this leads a majority of suppliers gaining nationally - but it leads to lower standard fees for a majority of London suppliers. However:

- In the categories of law affected we have more providers in London than we do in other areas where it is more difficult to obtain supply. Our modelling shows that we currently spend significantly more in London than the

allocation of the social welfare budget using data from means tested benefits would justify.

- The actual cash amounts involved for firms whose current average costs are above the fees are relatively small. Total national expenditure on solicitors for legal help cases covered by the fees is around £28m – compared to over £570m for family work. Even in the TFF replacement categories many firms rely on the income from legal representation rather than initial legal advice.
- For Not for Profit providers –we intend to put in transitional arrangements that will give them the opportunity to maintain their income.
- It is much easier for ‘swings and roundabouts’ to apply at the initial advice level –as there are a lot more clients. Firms can easily become ‘winners’ under the new scheme by taking on more Legal Help cases – not difficult given high levels of demand and the speed with which Legal Help cases conclude.

Immigration

6 We have stayed with a national rate –clients move around the country in this category. Average costs are not significantly higher in London than in other regions and we have large numbers of suppliers in London. Detained clients are not covered by the new standard fees but will continue to be dealt with under separate duty schemes. These and other services excluded from the standard fee scheme will be based around process and location of client.

Mental Health

7 Mental health providers operate over wide areas not coinciding with our regional boundaries. Indeed many work on a national basis. For example 42% of cases dealt with by London suppliers are for clients outside of London. Current regional costs therefore reflect to some extent the high costs of firms travelling to see clients in different regions rather than the real cost of supply of advice. Paying a high element for travel represents an inefficient use of public funds and we see the future of mental health law services for detained clients as based around hospitals rather than the current geography of supply.

8 We expect to announce the final shape of the mental health fee scheme in the coming weeks.

Family

9 In family, as in other schemes, we have retained a national fee for initial advice in (level 1 in private, levels 1 and 2 in public).

10 However the impact of setting national fees at the legal representation level (i.e. beyond initial advice) could in our view, have an unacceptable effect on access in the short term because of the current profile of supply. Family firms would tend to be heavily reliant on their income from legal representation. Increasing a caseload to make up for any losses will also require more resource for firms than at the Legal Help level – and will be more difficult to do because of lower demand and eligibility. Nor do we have the same issues with family suppliers travelling to other regions as

we do with mental health –or therefore quite the same need to encourage local supply outside of London.

11 We are therefore proposing that the fees at Level 3 (legal representation) should be based on four geographic regions merging the boundaries of existing LSC offices. This reduces the amount of variation of costs compared to a national fee. In addition to this, there is less deviation within the super regional distributions than there is in many equivalent regional distributions. The supra regions are:

- Southern: incorporating London, Brighton, Reading and Bristol
- Midlands: incorporating Birmingham, Nottingham and Cambridge
- Northern: incorporating Newcastle, Leeds, Liverpool and Manchester
- Wales

12 In public law, this produced an acceptable distribution of costs across all regions, including London.

13 The difference of average costs between London and non-London, and the variation of costs within London is however much greater in private than in public family law. Therefore in order to ensure that we maintain a reasonable balance of supply, after restructuring the fees based on the four supra regions, we have also proposed an added uplift of 16% to the fees for London suppliers at levels 2 and 3 in private family cases. We see this as a transitional measure to maintain supply: we do not consider the current high price of London cases as necessarily justifiable and we would expect London prices to come down either through competition or because of our drive to ensure that cases settle at an early stage.

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