

ANNEX – HOW THE FEES WERE CALCULATED

1. CARE PROCEEDINGS GRADUATED FEES INCLUSIVE OF VAT

Level 1 – Initial advice

National (including VAT)
£169

Level 2 – Negotiation

National (including VAT)
£360

Level 3 - Full Representation (Including VAT)

Party	Court	No. of Clients	Midlands	North	South	Wales
Child	Other	1	£3,156	£2,716	£3,535	£3,359
Child	Other	2+	£4,734	£4,074	£5,302	£5,038
Child	High	1	£4,198	£3,612	£4,701	£4,467
Child	High	2+	£6,296	£5,418	£7,052	£6,701
Joined Party	Other	1	£1,207	£1,136	£1,985	£1,722
Joined Party	High	1	£1,606	£1,511	£2,640	£2,290
Parent	Other	1	£2,374	£1,930	£3,106	£2,577
Parent	Other	2	£2,968	£2,413	£3,882	£3,221
Parent	High	1	£3,158	£2,567	£4,131	£3,427
Parent	High	2	£3,947	£3,209	£5,164	£4,284

2. HOW THE CARE PROCEEDINGS GRADUATED FEES WERE CALCULATED

1. The methodology for calculating the Care and Supervision fees is set out below.

Level 1 Fee

2. The fee for Level 1 has been calculated on the basis that all cases at this level will receive one fixed fee, except for those cases whose costs exceed 3 times this fixed fee. The dataset used to calculate the Level 1 fee was the set of all Public Law controlled work cases from the financial year 05/06.

Level 2 Fee

3. The Level 2 fee was set as being the value of 6 hours' work at a national rate equivalent to CLR rates of £60 per hour. This equals £306 exclusive of VAT, which equated to £360 inclusive of VAT.
4. Half of the total predicted cost of Level 2 (£2.13M) was removed from the fund for Level 3 parent cases, the remainder is additional money introduced on the basis that in the future this will result in a reduction in the number of cases heard at court, or a narrowing of issues, that reduces costs.

Level 3 Fee

6. The dataset used to calculate the level 3 fees was the set of all licensed cases from the financial year 05/06. Throughout the following description, the following parameter and variable declarations are used:

Parameters –

h	= Uplift for cases heard in the High Court	(= 33%)
c	= Uplift for child cases involving more than one child	(= 50%)
p	= Uplift for parent cases involving more than one parent	(= 25%)
a	= % of costs to be allocated to advocacy (see below)*	(= 30%)

Variables –

F_H	= Fee for cases in High Court (for 1 client if applicable)
F_O	= Fee for cases in other Courts (for 1 client if applicable)
F_{H2}	= Fee for cases in High Court for more than 1 client (if applicable)
F_{O2}	= Fee for cases in other Courts for more than 1 client (if applicable)

7. The percentage of costs allocated from the Care and Supervision budget for advocacy will be used as to develop the Litigator standard fee scheme that we will be consulting on later this year.
8. The cases were grouped according to the four 'super regions', and the fees calculated for each of these as set out below.

Joined Party

9. The joined party level 3 fee has been calculated on the basis that all cases at this level will receive one of two fixed fees, depending on whether they are heard in the High Court or not. Exceptions will be those cases whose costs exceed 2 times the relevant fixed fee. The dataset was split into two subgroups dependant on whether the cases were heard in the High Court (Group 1) or other courts (Group 2).
10. After fee calculations, these groups will each contain non exceptional and exceptional cases.
11. We defined:

$$\begin{aligned}
 B &= \text{Sum of profit costs for non exceptional cases in Group 1} \\
 &+ \text{Sum of profit costs for non exceptional cases in Group 2} \\
 &* (1 - a)
 \end{aligned}$$

$$\begin{aligned}
 V_H &= \text{Volume of non exceptional cases in Group 1} \\
 V_O &= \text{Volume of non exceptional cases in Group 2}
 \end{aligned}$$

For cost neutrality, the following formula must be satisfied:

$$B = F_O V_O + F_H V_H \quad (1)$$

We also know that the following formula is true:

$$F_H = F_O(1 + h) \quad (2)$$

Substituting (2) into (1) and rearranging gives:

$$F_O = \frac{B}{V_O + V_H(1 + h)} \quad (3)$$

12. F_O and F_H were defined as being the highest possible solutions to formulae (2) and (3) above such that the next highest cost case, and therefore all cases exceeding this cost, in each group was greater than or equal to the resulting fee multiplied by our exceptional case multiplier of 2.

Parent

13. The parent Level 3 fee has been calculated on the basis that all cases at this level will receive one of four fixed fees, depending on whether they are heard in the high court or not and whether they involve one, or more than 1, parents. Exceptions will be those cases whose costs exceed 2 times the relevant fixed fee. Cases involving more than one parent will attract an uplift (p) of 25% over those cases involving one parent.
14. The single client parent fees were created in the same way as those for joined party cases, with the exception that half of the Level 2 fee for parent cases was removed from the profit costs for each case before calculation.
15. The dataset was split into two subgroups dependant on whether the cases were heard in the High Court (Group 1) or other courts (Group 2).
16. After fee calculations, these groups will each contain non exceptional and exceptional cases.
17. We defined:

V_H = Volume of non exceptional cases in Group 1
 V_O = Volume of non exceptional cases in Group 2

B = (Sum of profit costs for non exceptional cases in Group 1
+ Sum of profit costs for non exceptional cases in Group 2)
* $(1 - a)$
- Funding for level 2

For cost neutrality, the following formula must be satisfied:

$$B = F_O V_O + F_H V_H \quad (1)$$

We also know that the following formula is true:

$$F_H = F_O(1 + h) \quad (2)$$

Substituting (2) into (1) and rearranging gives:

$$F_O = \frac{B}{V_O + V_H(1 + h)} \quad (3)$$

18. F_O and F_H were defined as being the highest possible solutions to formulae (2) and (3) above such that the next highest cost case, and therefore all cases exceeding this cost, in each group was greater than or equal to the resulting fee multiplied by our exceptional case multiplier of 2.

19. The multiple client fees were then calculated by multiplying these fees through by the uplift for parent cases involving more than one parent, that is:

$$F_{O2} = F_O(1 + p)$$

$$F_{H2} = F_H(1 + p)$$

Child/ren

20. The child Level 3 fee has been calculated on the basis that all cases at this level will receive one of four fixed fees, depending on whether they are heard in the high court or not and whether they involve one, or more than 1, child. Exceptions will be those cases whose costs exceed 2 times the relevant fixed fee. Cases involving more than one parent will attract an uplift (c) of 50% over those cases involving one child.
21. The dataset was split into four subgroups dependant on whether the cases were heard in the High Court or other courts, and whether they involved one child or multiple children. The groups were assigned as follows:

- Group 1 – High Court cases involving 1 child
- Group 2 – High Court cases involving multiple children
- Group 3 – Other Court cases involving 1 child
- Group 4 – Other Court cases involving multiple children

22. After fee calculations, these groups will each contain non exceptional and exceptional cases.

23. We defined:

- V_H = Volume of non exceptional cases in Group 1
- V_{H2} = Volume of non exceptional cases in Group 2
- V_O = Volume of non exceptional cases in Group 3
- V_{O2} = Volume of non exceptional cases in Group 4

- B = (Sum of profit costs for non exceptional cases in Group 1
- + Sum of profit costs for non exceptional cases in Group 2
- + Sum of profit costs for non exceptional cases in Group 3
- + Sum of profit costs for non exceptional cases in Group 4)
- * (1 – a)

For cost neutrality, the following formula must be satisfied:

$$B = F_O V_O + F_H V_H + F_{O2} V_{O2} + F_{H2} V_{H2} \quad (1)$$

We also know that the following formulae are true:

$$F_H = F_O(1 + h) \quad (2)$$

$$F_{O_2} = F_O(1 + c) \quad (3)$$

$$\begin{aligned} F_{H_2} &= F_{O_2}(1 + h) \\ &= F_O(1 + h)(1 + c) \end{aligned} \quad (4)$$

Substituting (2),(3) and (4) into (1) and rearranging gives:

$$F_O = \frac{B}{V_O + V_{O_2}(1 + c) + V_H(1 + h) + V_{H_2}(1 + h)(1 + c)} \quad (5)$$

24. F_O , F_{O_2} , F_H and F_{H_2} were defined as being the highest possible solutions to formulae (2), (3), (4) and (5) above such that the next highest cost case, and therefore all cases exceeding this cost, in each group was greater than or equal to the resulting fee multiplied by our exceptional case multiplier of 2.

3. OUTCOMES FROM THE CARE AND SUPERVISION FILE REVIEW EXERCISE

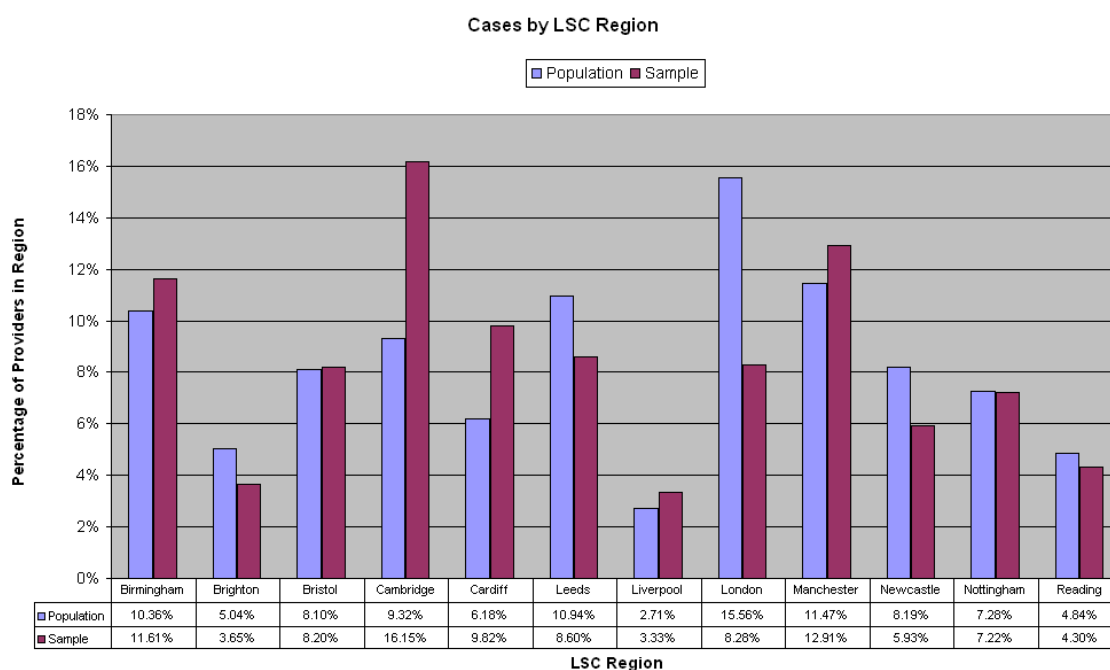
1. In order to better inform the development of a graduated fee scheme for Care and Supervision cases, a billed certificates review exercise was conducted. A sample of completed care and supervision certificates were reviewed from November 2006 to February 2007, and a detailed breakdown of the costs on these files was recorded.

Sampling

2. The sample consisted of 1,232 certificates, which represents 5.2% of the population as a whole. The sample of bills was requested so as to be representative of the population. The following indicators were used to ensure this:

Region -

3. Files were requested from all 12 Legal Services Commission regions in order that any regional variations in costs could be analysed. The chart below compares the proportional distribution of care and supervision

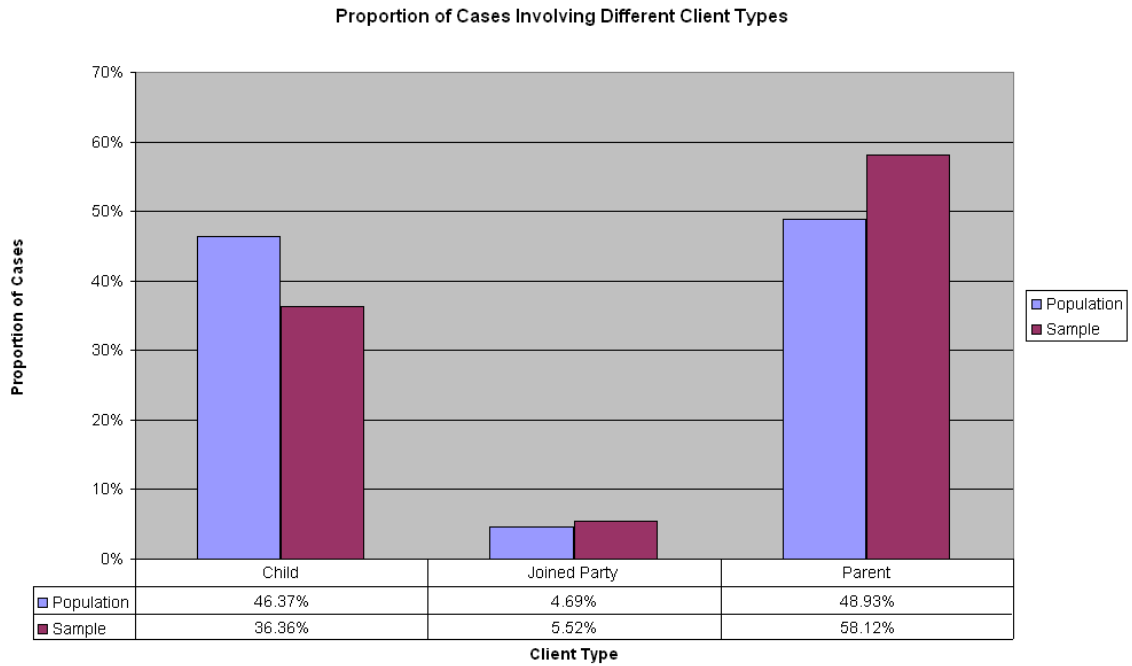


cases across the regions of both the sample and the population:

4. This shows that the regional spread of files reviewed is close to that of the population as a whole with the exception of Cambridge being over-represented in favour of London. The sampled proportion of cases from London, however, accounts for a large enough proportion of the sample so as not to be insignificant.

Client Type -

5. As the standard fees are intended to differentiate between client type, a representative proportion of files involving each type of client was requested. The chart below shows the proportion of certificates involving each client type in the sample and the population.

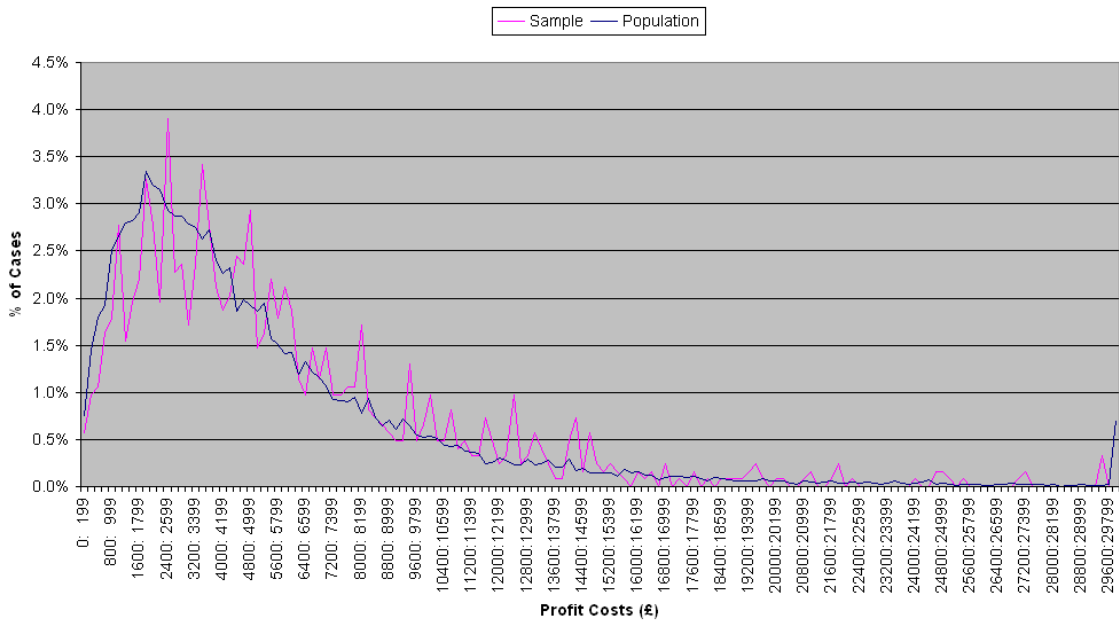


This shows that a representative sample of certificates involving each client type was reviewed.

Costs

6. In order that the sample contained certificates from throughout the costs distribution, both a sample of files that had been LSC assessed and Court assessed. The chart below displays the distribution of profit costs for both the population and the sample:

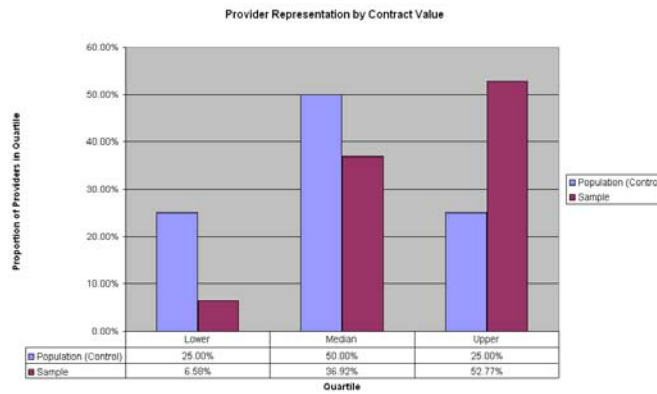
Distribution of Profit Costs for Population and Sample



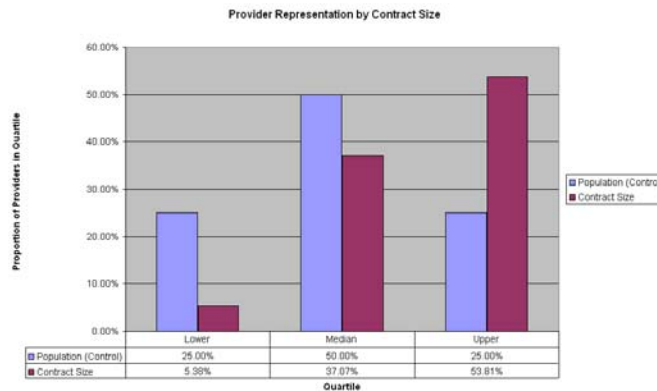
This shows that the sample was representative of the population in terms of the distribution of costs.

Note on representation of providers

7. The contract size and value of the providers represented in the sample was compared to the population as a whole. The following charts show what proportion of providers represented in the sample fall into each quartile in terms of contract value and contract size from the population as a whole:



It can be seen that the sample contained an over-representative proportion of



certificates from larger providers, in terms of both contract value and size.

Findings

8. The primary incentive for the review exercise was to determine the proportion of money spent on care and supervision cases that was paid towards advocacy.
9. On review of the data collected, it was shown that 28% of all reported costs related to advocacy. This figure has been used in calculating the fee schemes as we have taken 30% of the costs away from the money used to calculate fixed fees to pay for advocacy.

4. FAMILY HELP PRIVATE FEES - INCLUSIVE OF VAT

These Private Family figures were amended on 6th March due to an error with the rounding's when adding VAT and the London uplift. The figures in the consultation document are not affected.

Level 1 – Initial advice

National (including VAT)
£111

Divorce - Petitioner

National (including VAT)
£153

Level 2 – Children

	Settled (Inc VAT)	Not settled (include VAT)
	£381	£239
London	£442	£276

Level 2 – Finance

	Settled (Inc VAT)	Not settled (include VAT)
	£419	£262
London	£486	£304

Level 3 – Children (Including VAT)

Midlands	North	South	London	Wales
£868	£768	£1,230	£1,428	£803

Level 3 – Finance (Including VAT)

Stage	Midlands	North	South	London	Wales
3a	£242	£237	£262	£304	£242
3b	£835	£808	£1,121	£1,301	£709

3c	£1,170	£1,132	£1,569	£1,820	£993
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5. HOW THE FAMILY HELP GRADUATED FEES WERE CALCULATED

1. The Family Help Private Fees were calculated on figures from the Financial Year 05/06. The total fund spend for Legal Help and Certificates, in the Financial Year 05/06 was:

- Legal Help: £53M
- Certificates: £206M
- Total budget: £259M

2. The data used for the fees calculation consists of

- 253,000 Legal Help cases (claimed on the Consolidated Matter Report Form) under the categories Private Law Children, Divorce, Domestic Violence, Other Relationship Breakdown, Other
- 85,000 Private Family Certificates closed and billed during 05/06.

Regions

3. Level 1 and 2 fees have been set at a National level, whereas Level 3 is split into 4 supra regions, North, Midlands, South and Wales. For the London region, a 16% uplift has been included on Level 2 and 3 fees, to offset the effects of a National Level 1 and 2 fee.

Categories

4. Each case has been flagged as containing Children, Financial or Domestic Violence Issues. The category of a case was determined using a combination of:

- Matter Type I and II codes for Legal Help claims
- Proceeding Codes added to a certificate

5. A Legal Help case for example reported as FDIV, FPC (Divorce, Both financial/property and children issues) would be flagged as Children and flagged as Finance. The cost of each case is then split and added to the budget for Children (B_C), or Finance (B_F) and a reserve budget for Domestic Violence cases.

Fee Calculations

Divorce- Petitioner

6. The fee for a divorce, while representing the Petitioner, was set as being the value of 3 hours' work at a national rate of £51 per hour.

Level 1 – Initial Advice

7. The Level 1 Fee is based on an historical average, taking into account:

- Volume - all cases claimed at Legal Help, excluding the above divorces

- Budget - full Profit Costs and Counsel Costs of cases recorded as Endpoint 3A (First Meeting) and a proportion of the costs of cases recorded as Endpoint 3B,C,D, (i.e. Level 2)
8. The full cost of Domestic Violence cases at Legal Help, are included in the Level 1 Fee. A Domestic Violence case, not requiring representation, with costs greater than three times Level 1 fee will be paid at hourly rates.

Level 2 General

9. Cases are considered to be Level 2 if they were reported as,
- Legal Help, Endpoint 3B,C,D (Further Work, Putting case for client, Representation at court)
 - Certificate, Endpoint 1A (No proceedings issued)
10. For the calculation of the fees we have only considered cases belonging to the Legal Help dataset. The budget comprises of all costs from Legal Help apportioned for Level 2 and the proportions of costs from Certificates apportioned to fund work at this level. Fees are calculated separately for categories “Children” and “Financial”.
11. Domestic Violence cases are not eligible for a Level 2 payment. If the case requires proceedings to be issued it shall need to be completed under hourly rates on a Certificate.
12. Within each category, Children or Finance, we have calculated two separate fees, for settled and non-settled cases. The relationship between fee levels is based on an uplift, which has been set to 60%. In practical terms this means that the fee for settled cases is 60% higher than for non-settled cases.

Level 2 Children Fees

13. The Level 2 Fee is based on an historical average, where:
- Volume - every Level 2 case from Legal Help flagged with a Children issue
 - Budget_(Bc) - the remaining budget after Level 1 has been paid, all Profit Costs and Counsel Fees from Certificates ending at Level 2 and a proportion of Profit Costs and Counsel Fees from Certificates ending beyond Level 2.
14. We also include 10% of the cheapest Level 3 Children cases, which we assume will conclude prior to or at the Conciliation Appointment, and are therefore now included under the Level 2 payment.
15. The fee calculation takes account of the relationship between settled and non-settled cases:

$$\text{Settled fee} = 160\% \text{ non-settled fee}$$

Level 2 Finance Fees

16. The Level 2 Fee is based on an historical averages, where:

- Volume - Every Level 2 case from Legal Help flagged with a Finance issue
 - Budget (B_F) - The remaining budget after Level 1 has been paid, all Profit Costs and Counsel Fees from Certificates ending at Level 2 and a proportion of Profit Costs and Counsel Fees from Certificates ending beyond Level 2.
17. The fee calculation takes account of the relationship between settled and non-settled cases:

$$\text{Settled fee} = 160\% \text{ non-settled fee}$$

Level 3 General

18. Cases are considered to be Level 3 if they were reported as either Certificate, Endpoint 1B (Proceedings Issued, No Final Hearing).

Level 3 Children Fees

19. The Level 3 Fee is based on an historical average, where:
- Volume - every Level 3 case flagged with a Children issue
 - Budget (B_C) - the remaining budget after Level 2 has been paid, all Profit Costs and Counsel Fees from Certificates ending at Level 3 and a proportion of Profit Costs and Counsel Fees from Certificates at Endpoint 1C (Determined at Final Hearing).

Level 3 Finance Fees

20. Level 3 Finance cases are split into two stages and three separate fees. The overall budget and volume for this Level is determined by:
- Volume - every Level 3 case flagged with a Finance issue
 - Budget (B_F) - the remaining budget after Level 2 has been paid, all Profit Costs and Counsel Fees from Certificates ending at Level 3 and a proportion of Profit Costs and Counsel Fees from Certificates at Endpoint 1C (Determined at Final Hearing).
21. The division between cases ending at Level 3a and those moving onto 3b or 3c is not recorded in our dataset. We have therefore assumed that 15% of the cheapest Level 3 Finance cases ended under Level 3a. To fund this level we have assigned 30% of the budget of Level 3 to Level 3a.
22. The Level 3a Fee is based on an average, where:
- Volume - every Level 3 case flagged with a Finance issue
 - Budget - all Profit Costs and Counsel Fees from Certificates ending at Level 3a and a proportion of Profit Costs and Counsel Fees from Cases ending at Level 3b/c.
23. The Level 3b/c Fees are based on an average, where:

- Volume - the remaining 85% of Finance Level 3 cases assumed not to end at 3a.
- Budget - the remaining Level 3 budget.

24. The average takes account of the relationship between settled and non-settled cases:

Settled fee = 140% non-settled fee

25. We have assumed that 60% of cases will settle at this stage, this has been influenced by the proportion of cases recorded as Endpoint2D (Settled).

6. PRIVATE FAMILY LAW SCHEMES – FEE LEVEL

