

Draft Regulatory Impact Assessment

Supplier Support Services Funded by the CLS Fund Consultation Paper

1. Introduction

1.1 This is a draft regulatory impact assessment of the options outlined in our consultation paper 'Legal Services Commission Review of the Specialist Support Service and the Community Legal Service Grants Financed by the Community Service Legal Fund', published on 18 June 2007. The proposals set out in that paper are currently the subject of a public consultation that ends on 10 September 2007. Following the conclusion of the consultation, the Commission's published response will include a full regulatory impact assessment that will take into consideration any feedback received.

1.2 The consultation paper focuses on spending from the CLS Fund on projects not funded through the Unified Contract and makes proposals as to whether they should continue to be funded at all and, if so, on what terms. The review outlines proposals to two key areas of funding:

- the CLS Grants Budget (Grants);
- the Specialist Support Service (SSS).

These are included together under the umbrella term 'Supplier Support Services' but are addressed in detail in the consultation paper separately, as they are below.

2. Title of Proposal

2.1 Legal Services Commission Review of the Specialist Support Service and the Community Legal Service Grants Financed by the Community Service Legal Fund.

CLS GRANTS BUDGET

3. Purpose and Intended Effect

3.1 Objective of Proposals

The objective of this proposal is to:

- raise the Grants budget to £1 million per annum for three years;
- revise the existing criteria and application process, realigning them with the CLS Strategy and current LSC corporate priorities; and
- run a tender exercise to allocate resources from April 2008.

3.2 Background

The CLS Grants Budget is a mechanism that has allowed the Commission to consider ad hoc funding proposals from a variety of organisations and award funding to projects and activities that do not necessarily provide direct advice solely to eligible clients. It is part of the CLS Fund and in 2006/07 it amounted to £928,233.

It is currently used to support the following four projects:

3.2.1 Law Centres Federation

The Law Centres Federation (LCF) encourages the development of publicly funded legal services for use by the most disadvantaged in society and promotes the law centre model as the means of encouraging such use. LCF promotes good practice and innovation in the delivery of high quality legal services to the community to improve access and justice.

Monitoring reports demonstrate LCF activities fall broadly into two categories:

- direct support, regulation and promotion of law centres; and
- liaison, consultation and campaigning in relation to external bodies (primarily statutory) on policy issues significant to law centres.

The grant, of £331,210, over 2004-06 directly funds the Director, Policy Manager and Administrator posts in the LCF Central Services Directorate. It is due to continue until the end of March 2008, when it concludes under existing terms.

3.2.2 Royal Courts of Justice Citizens Advice Bureau

The Bureau provides a mixture of traditional CAB work (generalist advice) and pro bono legal assistance to litigants in person in cases in the High Court, the Principal Registry of the Family Division and the Court of Appeal.

Services range from legal advice at 'drop-in' sessions and help compiling legal documents to acting in complex litigation. The work seeks to enable litigants to appear with a better understanding of how to present their case. The Bureau ensures litigants appear with organised papers, a written skeleton argument and, on occasion, enables the litigant to be represented.

This grant, of £566,558 over 2004-2006, funds the basic staffing of the Bureau: three solicitors, two trained casework supervisors, one administrative assistant, and half the time of the Bureau Director and receptionist. Further to the grant, pro bono services also assist in the delivery of services. It is due to continue until the end of March 2008, when it concludes under existing terms.

3.2.3 Advice Services Alliance

The Advice Services Alliance (ASA) is the umbrella organisation for all independent advice services and networks in the UK. It aims to:

- champion the development of high quality information, advice and legal services;
- ensure people are not denied access to such services on account of lack of means, discrimination or other disadvantage;
- encourage co-operation between organisations providing such services; and
- provide a forum for the discussion of issues of common interest or concern to advice organisations.

This grant, of £558,698 over 2004-06, funded two distinct areas of work:

- ‘core’ organisational management and policy posts: consultation, co-ordination and policy guidance; and
- CLS Support project: consultancy, information, training and other support services to advice organisations and providing support to organisations applying for or operating contracts with the LSC.

It is due to continue until the end of March 2008, when it concludes under existing terms.

ASA also receive £34,000 from the LSC’s Direct Services Programme to support two websites, Advicenow and ADRnow, but this funding is not part of the CLS Grants Budget.

3.2.4 Solicitors Pro Bono Group, LawWorks Project

The LSC and the Ministry of Justice (MoJ) jointly fund the Solicitors Pro Bono Group (SPBG), which works in partnership with the LCF to deliver the LawWorks Project. The project facilitates involvement of the legal profession in pro bono work through three inter-related elements:

- face-to-face pro bono legal advice clinics;
- web-based Initial Electronic Advice (a single question answered via the internet); and
- web-based Link to In Depth Advice and Assistance (a clearing house matching casework with lawyers).

The grant, of £400,000 from September 2004 to August 2007 (with a further £200,000 from MoJ), directly funds three project managers and one administrative assistant to:

- provide consultancy to setting up Clinics, those with Clinics already in operation, and law firms seeking to volunteer at a Clinic;
- expand the provision of face-to-face and online training for lawyers;
- develop a legal education programme for local communities;
- extend Web-based Initial Electronic Advice areas where there is no LawWorks Clinic, with particular attention to rural areas; and

- extend Web-based In Depth Advice and Assistance to urban and rural communities to provide a pro bono casework system for individuals and community groups.

It is due to continue until the end of March 2008, when it concludes under existing terms.

3.3 Rationale for Intervention

We have reviewed the current CLS Grants budget expenditure and considered the direction set by the CLS Strategy and the LSC's corporate priorities. As a result we have reviewed the strategic use to which Grants should be put and propose revised criteria and application processes for this budget.

The proposals will ensure Grants are used to support the Commission's strategic objectives, aiming to fund specific deliverables and project outcomes rather than generic posts within funded organisations.

The current arrangements for funding will continue in their present form until the end of March 2008, when all four grants were due to expire under existing terms in any event. From April, the CLS intends to continue to fund grants in accordance with a new, better aligned, service.

4. Consultation

4.1 The proposals are the subject of a twelve-week, public consultation forming part of the wider Supplier Support Services Review. This will end on 10 September 2007. The Commission aims to engage stakeholders over the consultation period, seeking their views and any alternative suggestions. Comments on this draft impact assessment are also welcome as a means of informing the full impact assessment.

Following the conclusion of the consultation, the Commission will publish any responses, together with a full regulatory impact assessment.

5. Options

5.1 Below is a summary of the options presented in the consultation paper, although the Commission is also keen to hear whether respondents have alternative views or proposals that could achieve the same objectives. The options will be reviewed in the light of the full regulatory impact assessment later this year.

5.2 Do Nothing: continue with the same criteria, process and budget currently in place.

5.3 Revise Criteria: this option sets a clear limit for the CLS Grants budget, raising it to £1 million per annum for three years. It aligns the criteria for future funding with the CLS Strategy and current LSC corporate priorities.

Existing funding agreements will continue until their original termination dates in March 2008 and organisations, including those currently in receipt of grants, will be able to apply for funding for projects under the revised criteria from April 2008.

5.4 Redirect Budget: redirect the whole of CLS Grants budget. This would enable an additional £1 million to be spent on the delivery of new matter starts but would remove the flexibility to award funds to projects that help to achieve our strategic priorities, but which cannot be funded under mainstream civil legal aid contracts.

6. Costs and Benefits

6.1 Sectors Affected

Sectors and groups potentially affected by the consultation proposals include:

- NfP providers currently in receipt of Grants;
- future NfP providers potentially in receipt of Grants;
- current and future users of Grants-funded services;
- current and future private providers participating in Grants-funded services;
- employees and volunteers of NfP organisations and private providers offering Grants-funded services;
- those potentially providing additional new matters starts;
- those potentially in receipt of additional new matters starts; and
- NfP and legal representative bodies.

6.2 Analysis of Costs, Disbenefits and Risks and Benefits

6.2.1 Do Nothing

Costs, Disbenefits and Risks

- This option would fail to establish a maximum amount of the CLS fund available for purposes other than the delivery of acts of assistance.
- It would effectively accept that applications could still be made and funded using the existing criteria, making funding available on a reactive, ad hoc basis.
- It would leave projects unaligned with the CLS Strategy and current LSC corporate priorities.

Benefits

- Retention of the status quo means providers and users remain familiar with current schemes and processes.
- It would leave uncapped those funds available for purposes other than the delivery of acts of assistance.

6.2.2 Revise Criteria

Costs, Disbenefits and Risks

- Proposed changes might provoke opposition from providers.
- Opposition might lead to a withdrawal of support, or loss of interest, in the scheme altogether.
- Organisations currently being funded will have to reapply for funding under the revised criteria.

Benefits

- This option would raise the CLS Grants budget from £928,000 to £1 million per annum for three years.
- Besides constituting a rise in the budget this would also offer a degree of stability over the medium-term.
- Existing funding agreements will continue under existing terms until their agreed termination dates in March 2008, thereby avoiding any unexpected disruption in the interim.
- Organisations currently in receipt of grants will have opportunity to reapply for funding after March 2008.
- The revised criteria will better align future funding with the CLS Strategy and current LSC corporate priorities.

6.2.3 Redirect Budget

Costs, Disbenefits and Risks

- Redirecting the entire Grants budget elsewhere would remove the useful flexibility currently available to award funds to projects that cannot be funded under mainstream civil legal aid contracts.
- This would impair our current ability to achieve our strategic priorities using such means.
- Organisations currently providing valuable services might collapse as a result of withdrawal of CLS funding.

Benefits

- Redirection of the Grants budget would enable an additional £928,000 to be redirected towards the delivery of new matter starts.

7. Equality & Fairness Impact Assessment: Race, Disability, Gender and Rural impacts

Our Duties:

7.1 Race Equality

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; and
- promote good relations between people from different groups.

The MoJ and LSC are also under a specific duty to conduct race equality impact assessments of its 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.

7.2 Disability Equality

The Disability Equality Duty came into force on 4th December 2006. The LSC has already published its Disability Equality Scheme and this is available on the LSC website at www.legalservices.gov.uk. This sets out the actions that we will be taking to promote disability equality for legal service providers and the clients they serve, and our staff.

When carrying out our functions, we 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; and
- take steps to take account of disabled people's disabilities, even where that involves treating disabled people more favourably than other people.

From 4th December 2006, the MoJ and LSC have been 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.

7.3 Gender Equality

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; and
- promote equality of opportunity between men and women.

From 6th April 2007, the MoJ and LSC have 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.

7.4 Rural Proofing

Public authorities also need to take account of rural circumstances and needs (Rural White Paper, 2000). Rural proofing states that policy makers should systematically:

- consider whether their policy is likely to have a different impact in rural areas, because of particular rural circumstances or needs;
- make a proper assessment of those impacts, if they are likely to be significant; and
- adjust the policy, where appropriate, with solutions to meet rural needs and circumstances.

Where appropriate, the MoJ and LSC should also consider the rural impacts of their policies to identify whether there is a differential and adverse impact on rural areas.

7.5 Current Position

Black and minority ethnic (“BME”) groups, the disabled, people of different genders, and people living and/or working in rural communities have a direct interest in any changes to the legal aid scheme, as the owners and/or managers of solicitor firms providing legal aid services, as employees of those organisations, as barristers and experts providing services to contracted organisations and as clients of legal aid services.

8. Impact on Providers, Employees and Clients

8.1 Impact on Providers

As stated above, the four organisations in receipt of grants funding are the Law Centres Federation (LCF), the Royal Courts of Justice Citizens Advice Bureau (RCJ CAB), Advice Services Alliance (ASA) and the Solicitors Pro Bono Group (SPBG) LawWorks Project.

In 2005/06 the LSC provided 25% of LCF’s income, of which 20% was grant funding and 5% other LSC funding (Source: LCF Annual Report 2005/06).

In 2005/06 the LSC provided 44% of the income of the RCJ CAB. (Source: RCJ 2005/06 Annual Report).

In 2005/06 the LSC provided 51% of ASA’s income, of which 32% was the grant under review and 19% other LSC funding. (Source: ASA financial information submitted as part of their 2006/08 grant bid).

In 2005/06 the LSC provided 33% of the income of SPBG LawWorks project. (Source: SPBG LawWorks).

Neither the Legal Services Research Centre (LSRC)¹ nor the LSC as a whole is able to provide data in relation to the ethnicity, disability and gender-related ownership and/or control, or rural status, of the four organisations in receipt of grants funding.

Further, confidentiality agreements with providers prevent the release of diversity data for individual organisations and, in the present instance, the smallness of the sample would clearly militate against such release in any event.

8.2 Impact on Employees

Again, neither the LSRC nor the LSC as a whole is able to provide data in relation to the ethnicity, disability, gender-balance or rural status of the employees of the four organisations in receipt of grants funding.

Again, confidentiality agreements with providers prevent the release of diversity data for individual organisations, and individual employees and, in the present instance, the smallness of the sample would clearly militate against such release in any event.

8.3 Impact on Clients

Although the numbers of clients assisted are such that confidentiality agreements would not prevent the release of data by organisations in receipt of grants, there are difficulties with the whole concept of 'clients' in this area. LCF and ASA largely provide ongoing strategic support to their own member organisations while SPBG LawWorks facilitates lawyers in their provision of pro bono advice. They do not themselves have individual 'clients' in the usual sense of the term.

For that reason, neither the LSRC nor the LSC as a whole is able to provide data in relation to the ethnicity, disability, gender-balance or rural status of the clients of these three organisations.

Although the RCJ CAB produces regular figures in relation to the numbers of clients helped, it has not so far been obliged to produce figures relating to the ethnic, disability, gender or rural-related breakdown of the sample.

However, even given the manifest paucity of data in this area, the introduction of the new proposals in relation to Grants are believed to have no identifiable impact. All existing funding agreements relating to the Grants budget will continue as originally intended until their termination dates in March 2008, previously agreed under the terms of their contracts. Likewise, all relevant

¹ The Legal Services Research Centre (LSRC) is the independent Research Division of the Legal Services Commission (LSC). It was set up in 1996 to inform legal aid policy and the implementation of reform.

organisations with an interest in delivering projects within the scope of the criteria, including those organisations currently in receipt of Grants funding, will be able to reapply for funding under the revised criteria on equal terms, regardless of factors relating to ethnicity, disability and gender or rural location.

9. Competition Assessment

Having referred to the Office of Fair Trading (OFT) competition filter test, no significant impact on competition has been identified as a result of the our proposals in relation to the Grants budget.

10. Legal Aid Impact Test

There will be no negative impact on the CLS Fund. The additional £72,000 funding for the Grants budget will be found through proposed savings to the SSS. Any savings made will, in any case, be redirected towards new matter starts, as set out in the consultation paper. Hence, the proposals will have no impact on the level of spending incurred by the LSC on Legal Aid.

11. Enforcement, Sanctions and Monitoring

The LSC is committed to monitoring both the overall impact of the proposals on interested parties, and any projects subsequently funded under the new criteria and process, over the three years following implementation of the new proposals.

12. Implementation and Delivery Plans

Details of implementation and delivery plans will be provided in the full regulatory impact assessment to be published following the completion of the consultation.

13. Post Implementation Review

We will monitor and evaluate the impact of the proposals following implementation and will report on findings in accordance with our statutory duties and the LSC Equality Scheme.

14. Compensation Simplification Measures

The Cabinet Office has published interim guidance on compensatory simplification, to be applied when producing regulatory impact assessments. The interim guidance requires government bodies to actively look for opportunities to simplify or remove existing requirements when they want to introduce new regulation, and to assess both the extent to which any simplification proposals will offset the cost of the new regulatory measure and the impact of removing the existing provision.

These proposals do not provide firms or NfP providers with any additional or reduced regulatory burdens. They aim to revise the existing criteria and application process, realigning them with the CLS Strategy and current LSC corporate priorities.

The LSC therefore anticipates that the proposals will make a positive contribution to the Government's objectives to simplify and reduce the burdens of regulatory systems.

15. Summary and Recommendation

The LSC recommends the introduction of revised criteria, raising the CLS Grants budget to £1 million per annum for three years, continuing existing funding agreements until their agreed termination dates, and aligning Grants funding criteria with the CLS Strategy and current LSC corporate priorities.

SPECIALIST SUPPORT SERVICE

16. Purpose and Intended Effect

16.1 Objective of Proposals

The objective of this proposal is to:

- retain and reinforce the SSS, continuing with a modified and re-tendered consultancy service;
- withdraw funding for direct casework referrals and pay for these cases at the standard rate of remuneration through the Unified Contract; and
- withdraw funding for training courses.

16.2 Background

The SSS provides second-tier support in three ways: consultancy, casework referral and training. This is provided to eligible advice organisations in the areas of: welfare benefits, debt, housing, employment, community care, immigration, mental health, public law and human rights. The overall cost of the SSS in 2005 was £2,571,000 and in 2006/07 this had risen to £2,607,000.

The organisations funded through the SSS comprise a range of barristers' chambers, solicitors' practices and NfP organisations. Together with the categories of law for which they provide specialist support, these are:

- 1 Pump Court (Housing)
- Child Poverty Action Group - CPAG (Welfare Benefits)
- Christian Khan (Community Care & Public Law)
- Citizens Advice Specialist Support Unit (Employment & Debt)
- Disability Law Service (Community Care)
- Doughty Street Chambers (Human Rights & Public Law)

- Garden Court Chambers (Employment, Housing & Immigration)
- Joint Council for the Welfare of Immigrants - JCWI (Immigration)
- Liberty (Human Rights)
- London Advice Services Alliance - LASA (Welfare Benefits)
- MIND (Mental Health)
- Morgans Solicitors (Debt, Housing & Welfare Benefits – Wales only)
- Public Law Project (Public Law)
- Public Law Solicitors (Community Care)
- Scott-Moncrieff, Harbour & Sinclair (Mental Health)
- Shelter Cymru (Housing – Wales only)
- Shelter (Housing – England only)
- Terrence Higgins Trust (Immigration).

16.3 Rationale for Intervention

16.3.1 We believe that the SSS has:

- enhanced the quality and efficiency of advice in some first-tier legal advice services, and NfP organisations;
- improved case outcomes for clients in some cases;
- enabled access to integrated advice for some clients; and
- contributed to the skills development of some first-tier legal advisers.

16.3.2 However, the review concluded that the SSS has not delivered value for money and the consultation paper proposes to reform the existing scheme.

Analysis of SSS consultancy performance shows that there was significantly less use of the service than was funded under the contracts. Between January and December 2005, only 58% of the contracted service was carried out.

Only 29% of all eligible organisations actually used SSS consultancy, of which 85% were not-for-profit organisations, and 19% were solicitors.

The number of training courses delivered exceeded the number agreed and were well received, but the cost per capita has been high (£3,983 per course, £303 per trainee) in comparison to the cost of equivalent courses elsewhere. For example, the websites of MIND, CPAG, LASA, Doughty Street Chambers, Shelter and JCWI all advertised one-day courses, attracting 5-6 CPD points, at prices ranging from approximately £150 to £250.

There were only 14 casework referrals in total, resulting in 111 hours of advice.

16.3.3 The review concluded that the demand for consultancy and casework referrals had not been at the level anticipated, and although take-up on training courses had been good, the price was high and failed to provide value for money. In terms of contribution to the priorities of the CLS strategy

and the LSC's corporate objectives, the review concluded that the SSS did not have sufficient impact on the key priorities considering the value of funding allocated to the service.

16.3.4 We believe that redirecting a proportion of the SSS budget into funding more legal aid acts of assistance for the public will:

- deliver better value for money;
- increase client access; and
- have no detrimental impact on quality.

16.3.5 Subject to ongoing monitoring of the service and normal contract management, we will continue to fund existing SSS providers on the existing contract terms until March 2008. From April 2008, we propose to continue funding the SSS on revised terms and scope following a tender process. The value of funding earmarked for the service will be determined by the outcome of this consultation and the performance of the SSS during the first half of this financial year but will not exceed £2 million.

17. Consultation

17.1 The proposals are the subject of a twelve-week, public consultation forming part of the wider Supplier Support Services Review, where they are considered together with proposals relating to the CLS Grants Budget. The consultation will end on 10 September 2007. The Commission aims to engage stakeholders over the consultation period, seeking their views and any alternative suggestions. Comments on this draft impact assessment are also welcome as a means of informing the full impact assessment.

Following the conclusion of the consultation, the Commission will publish any responses, together with a full regulatory impact assessment.

18. Options

18.1 Below is a summary of the options presented in the consultation paper, although the Commission is also keen to hear whether respondents have alternative views or proposals that could achieve the same objectives. The options will be reviewed in the light of the full regulatory impact assessment later this year.

18.2 Do Nothing: continue with the SSS in its existing form, retaining the criteria, process and budget currently in place.

18.3 Revise Criteria: our proposals address three key areas: consultancy; training; and casework referral.

18.3.1 Consultancy We believe this service does support some providers in delivering specialist legal aid services but aim to keep the service under close review through greater use of contract management to ensure that it provides value for money. We propose:

- to limit the scope of the SSS in immigration and mental health, removing the service from providers holding an LSC contract, while retaining it for those holding an SQM;
- that the service is used to provide sufficient guidance to first-tier bodies that do not provide specialist immigration and mental health advice, to enable them to diagnose a client problem before referral to a specialist organisation;
- that the SSS provider should have the capability to take on cases under their Unified Contract where there is no local specialist supply.

18.3.2 Training We propose to withdraw funding for the national SSS training programme altogether. We believe the programme fails to provide value for money and is no longer appropriate. Appropriate courses are also available elsewhere from a whole range of voluntary groups, and from private providers.

18.3.3 Casework Referral We propose to remove direct casework from the scope of the SSS, requiring providers to carry out referral work under the terms of their Unified Contract.

18.4 Redirect Budget: redirect the whole of the SSS budget. This would enable an additional £2.6 million to be spent on the delivery of new matter starts but would remove access for clients and first-tier legal advice organisations to quality advice from specialist SSS providers in relation to unusual or complex queries.

19. Costs and Benefits

19.1 Sectors Affected

- SSS providers currently holding contracts;
- future SSS providers potentially holding contracts;
- employees and volunteers of providers offering SSS services;
- current and future users of the SSS;
- those potentially providing additional new matters starts;
- those potentially in receipt of additional new matters starts; and
- NfP and legal representative bodies.

19.2 Analysis of Costs, Disbenefits and Risks and Benefits

19.2.1 Do Nothing

Costs, Disbenefits and Risks

- It will leave the SSS unaligned with the CLS Strategy and current LSC corporate priorities.

- Demand for consultancy and casework referrals is likely to remain well below current funding levels.
- The cost of training will continue to represent poor value for money.
- There will remain a risk to service users through non-specialist use of the SSS by providers in the 'tolerance barred' categories of immigration and mental health law.

Benefits

- Retention of the status quo means SSS providers and service users remain familiar with current schemes and processes.
- Providers holding an LSC contract can continue to use the service in immigration and mental health.
- The national SSS training programme will remain available to service users.
- Providers can continue the referral of direct casework to the SSS.

19.2.2 Revise Criteria

Costs, Disbenefits and Risks

- Proposed changes might provoke opposition from providers.
- Opposition might lead to a withdrawal of support, or loss of interest, in the SSS altogether.
- Providers currently holding contracts will have to reapply for new contracts under the revised retendering criteria.

Benefits

- This option will ensure that, subject to a cap of £2 million, the amount of funding earmarked for the service will be determined by demand.
- Close review of the consultancy service through greater use of contract management will ensure greater value for money.
- Limiting the scope of the service in immigration and mental health so it is no longer available to those holding an LSC contract will provide an additional safeguard to service users.
- Providers will be able to take on cases themselves under their Unified Contract where there is no local specialist supply.
- Existing contractual agreements will continue under existing terms until March 2008, thereby avoiding any unexpected disruption in the interim.
- The encouragement of greater participation will assist in opening up the market, thereby maintaining high standards and again, providing greater value for money.
- The revised criteria will better align the SSS with the CLS Strategy and current LSC corporate priorities in the future.
- Any savings made will be redirected towards new matter starts.

19.2.3 Redirect Budget

Costs, Disbenefits and Risks

- Redirecting the entire SSS budget elsewhere will remove access for clients and first-tier legal advice organisations to quality advice from specialist SSS providers in relation to unusual or complex queries.
- This will impair our current ability to achieve our strategic priorities using such means.
- Organisations currently providing valuable services might collapse as a result of withdrawal of CLS funding.

Benefits

- Redirection of the SSS budget will enable an additional £2,607,000 to be redirected towards the delivery of new matter starts.

20. Equality & Fairness Impact Assessment: Race, Disability, Gender and Rural impacts

Our Duties:

20.1 Race Equality

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; and
- promote good relations between people from different groups.

The MoJ and LSC are also under a specific duty to conduct race equality impact assessments of its 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.

20.2 Disability Equality

The Disability Equality Duty came into force on 4th December 2006. The LSC has already published its Disability Equality Scheme and this is available on the LSC website at www.legalservices.gov.uk. This sets out the actions that we will be taking to promote disability equality for legal service providers and the clients they serve, and our staff.

When carrying out our functions, we 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; and
- take steps to take account of disabled people's disabilities, even where that involves treating disabled people more favourably than other people.

From 4th December 2006, the MoJ and LSC have been 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.

20.3 Gender Equality

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; and
- promote equality of opportunity between men and women.

From 6th April 2007, the MoJ and LSC have 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.

20.4 Rural Proofing

Public authorities also need to take account of rural circumstances and needs (Rural White Paper, 2000). Rural proofing states that policy makers should systematically:

- consider whether their policy is likely to have a different impact in rural areas, because of particular rural circumstances or needs;
- make a proper assessment of those impacts, if they are likely to be significant; and
- adjust the policy, where appropriate, with solutions to meet rural needs and circumstances.

Where appropriate, the MoJ and LSC should also consider the rural impacts of their policies to identify whether there is a differential and adverse impact on rural areas.

20.5 Current Position

20.5.1 Black and minority ethnic (“BME”) groups, the disabled, people of different genders, and people living and/or working in rural communities have a direct interest in any changes to the legal aid scheme, as the owners and/or managers of solicitor firms providing legal aid services, as employees of those organisations, as barristers and experts providing services to contracted organisations and as clients of legal aid services.

20.5.2 Research conducted by the LSRC and published in its 2006 Annual Diversity Report has provided information on the ethnicity, disability, gender and age profile of providers of legal aid services, their employees and their clients.

20.5.3 In 2007, the LSC will publish its 4th Equalities Annual Report, which will provide information on a number of areas including numbers of clients assisted in different groups.

21. Impact on Providers, Employees and Clients

21.1 Impact on Providers

Neither the LSRC nor the LSC as a whole is able to provide data in relation to the ethnicity, disability and gender-related ownership and/or control, or rural status, of the eighteen SSS providers in their SSS capacity. (Although *some* of the providers submit diversity data on the basis of being holders of LSC contracts, such data relates to their entire organisation and not those few individual personnel responsible for providing the service). It is therefore currently impossible to extrapolate from historic data what the likely impact of our proposals in relation to these areas is likely to be. The LSC is, however, committed to address the current data shortfall, and we would particularly welcome the contribution of any relevant statistics from interested parties.

21.2 Impact on Employees

Neither the LSRC nor the LSC as a whole is able to provide data in relation to the ethnicity, disability, gender-balance or rural status of the employees of the eighteen SSS providers in their SSS capacity. (Although *some* of the providers submit diversity data on the basis of being holders of LSC contracts, such data relates to their entire organisation and not those few individual personnel responsible for providing the service). It is therefore currently impossible to extrapolate from historic data what the likely impact of our proposals in relation to these areas is likely to be. The LSC is, however, committed to address the current data shortfall, and we would particularly welcome the contribution of any relevant statistics from interested parties.

21.3 Impact on Clients

21.3.1 Research conducted by the LSRC and published in its 2006 Annual Diversity Report does provide an analysis of the diversity of client organisations (ie. suppliers using the service offered by the SSS providers).

Data relating to the use of SSS was spilt into two discrete categories: (i) immigration and asylum support and (ii) non-immigration support.

21.3.2 Table 1, below, compares the ethnicity of majority managerial control of suppliers that did and did not use the SSS. As can be seen, client organisations with majority BME or split managerial control were more than twice as likely than white British managed organisations to have used the SSS for immigration and asylum related matters. This will reflect, in large part, the different contracts held by such BME firms, but is important to note nonetheless.

Table 1. SSS use by Ethnicity of majority managerial control of client organisation.

<i>Ethnicity</i>	Immigration SSS		Non-Immigration SSS	
	Service Unused	Service Used	Service Unused	Service Used
White British	2952	194	2629	517
	93.8%	6.2%	83.6%	16.4%
BME	388	58	372	74
	87.0%	13.0%	83.4%	16.6%
Split	132	24	115	41
	84.6%	15.4%	73.7%	26.3%
Total	3472	276	3116	632
	92.6%	7.4%	83.1%	16.9%

For non-immigration matters, while service take-up was similar for both majority white British and BME managed client organisations, the use of the service was particularly high for organisations with split managerial control. These differences proved to be significant. It should be noted that unlike majority white British or majority BME managerial control, client organisations with split managerial control cannot, by definition, be sole practitioners.

21.3.3 While use of the immigration SSS was only slightly higher for client organisations with female majority managerial control than those with majority male managerial control, there was a noticeable increase in the use of non-immigration SSS by female majority managed organisations. The use of SSS both in immigration and non-immigration matters was most common where client organisations had split male and female managerial control. There was significant association between the gender of majority managerial control of

client organisations and the use of both the immigration SSS and the non-immigration SSS.

Table 2. SSS use by Gender of majority managerial control of client organisation.

Gender	Immigration SSS		Non-Immigration SSS	
	Service Unused	Service Used	Service Unused	Service Used
Male control	1651	104	1523	232
	94.1%	5.9%	86.8%	13.2%
Female control	1342	113	1182	273
	92.2%	7.8%	81.2%	18.8%
Split control	498	57	433	122
	89.7%	10.3%	78.0%	22.0%
Total	3491	274	3138	627
	92.7%	7.3%	83.3%	16.7%

21.3.4 As can be seen from Table 3, there were no significant differences in the use of SSS when broken down by the long-term illness or disability status of those with majority managerial control.

Table 3. SSS use by Long-Term Illness or Disability status of majority managerial control of client organisation.

Long-Term Illness or Disability Status	Immigration SSS		Non-Immigration SSS	
	Service Unused	Service Used	Service Unused	Service Used
Ill or Disabled	105	4	93	16
	96.3%	3.7%	85.3%	14.7%
Not Ill or Disabled	3370	273	3032	611
	92.5%	7.5%	83.2%	16.8%
Split	69	5	61	13
	93.2%	6.8%	82.4%	17.6%
Total	3544	282	3186	640
	92.6%	7.4%	83.3%	16.7%

21.3.5 There were marked differences in the quantity of use of the SSS by client organisations. This section looks at the frequency with which client organisations made use of the service.

Table 4 shows the mean number of times client organisations made use of the SSS by ethnicity of majority managerial control. As well as being the most likely cohort to use the immigration SSS, client organisations with

ethnically split managerial control used the service more often, using SSS a mean of 7.58 times per organisation. However, majority white British controlled offices that had used the non-immigration SSS did so most often.

Table 4. Frequency and mean of SSS use by Ethnicity of majority managerial control of client organisation.

Ethnicity	Immigration SSS			Non-Immigration SSS		
	No. of Orgs.	Mean	Total Times Used	No. of Orgs.	Mean	Total Times Used
White British	194	6.06	1175	517	9.11	4712
BME	58	6.41	372	74	6.45	477
Split	24	7.58	182	41	8.44	346

21.3.6 Noticeable differences were apparent when looking at client organisations that used the SSS more than ten times (Table 5). A smaller percentage of majority white British managerial controlled client organisations used the immigration SSS more than 10 times when compared to BME majority and split managerial controlled organisations. In contrast, fewer majority BME managerial controlled client organisations used non-immigration SSS in comparison to white British and split majority managerial controlled organisations.

Table 5. Use of SSS ten or more times by Ethnicity of majority managerial control of client organisation.

Ethnicity	Immigration SSS		Non-Immigration SSS	
	Used up to 10 Times	Used more than 10 Times	Used up to 10 Times	Used more than 10 Times
White British	165	29	394	123
	85.1%	14.9%	76.2%	23.8%
BME	46	12	60	14
	79.3%	20.7%	81.1%	18.9%
Split control	19	5	31	10
	79.2%	20.8%	75.6%	24.4%
Total	230	46	485	147
	83.3%	16.7%	76.7%	23.3%

21.3.7 As is evident from Table 6, client organisations with majority female managerial control that had used the SSS did so more often than male

majority and split managerial controlled organisations in both immigration and non-immigration matters.

Table 6. Frequency and mean of SSS use by Gender of majority managerial control of client organisation.

Gender	Immigration SSS			Non-Immigration SSS		
	No. of Orgs.	Mean	Total Times Used	No. of Orgs.	Mean	Total Times Used
Male	104	5.40	562	232	8.50	1971
Female	113	6.45	729	273	9.48	2588
Split	57	5.91	337	122	8.66	1056

21.3.8 Further, while there was only slight variation in the probability of client organisations using the immigration SSS on more than ten occasions, such use of the non-immigration SSS was significantly more likely for majority female managed offices, as Table 7 shows.

Table 7. Use of SSS ten or more times by Gender of majority managerial control of client organisations.

Gender	Immigration SSS		Non-Immigration SSS	
	Used up to 10 Times	Used more than 10 Times	Used up to 10 Times	Used more than 10 Times
Male	89	15	187	45
	85.6%	14.4%	80.6%	19.4%
Female	94	19	195	78
	83.2%	16.8%	71.4%	28.6%
Split control	48	9	98	24
	84.2%	15.8%	80.3%	19.7%
Total	231	43	480	147
	84.3%	15.7%	76.6%	23.4%

21.3.9 Again, the rarity of majority long-term ill or disabled managerial control made it difficult to draw any reliable conclusions from the findings presented in Table 8 about the use of the immigration SSS.

Table 8. Frequency and mean of SSS use by Long-Term Illness and Disability status of majority managerial control of client organisations.

Long-Term Illness or Disability status	Immigration SSS			Non-Immigration SSS		
	No. of Orgs.	Mean	Total Times Used	No. of Orgs.	Mean	Total Times Used
Ill or Disabled	4	2.00	8	16	8.25	132
Not-Ill or Disabled	273	6.25	1705	611	8.97	5479
Split	5	11.80	59	13	7.62	99

21.3.10 A breakdown of client organisations by urban and rural location is addressed below under Rural proofing.

21.3.11 Summary

This data highlights the existence of a relationship between the ethnicity and gender of majority managerial control of client organisations and use of the SSS.

The immigration SSS was used by 13.0% of majority BME managed organisations, compared to 6.2% for majority white British managed organisations. Majority BME managed organisations that had used the service, on average did so more often than white British organisations. However, organisations with equally split white British and BME managerial control were noticeably the most likely to use both service, with 15.4% using the immigration service and 26.3% the non-immigration service. Client organisations with split managerial control that had used the immigration SSS also used the service more often than both their BME and white British counterparts. Of the organisations that had used the non-immigration SSS, white British managerial controlled organisations did so most often.

While BME managed firms are, thus, twice as likely to use immigration SSS as white British managed organisations, the vast majority of these providers are non-contract holders and will still be able to access SSS, even under the revised criteria.

If the proportion of contract holders to non contract holders is the same for both white British and BME managed firms using immigration and mental health SSS, then these proportions will remain equivalent under the proposed

new scheme. We would particularly welcome the contribution of any relevant statistics from interested parties in this area.

When looking at gender differences in managerial control, it is organisations with equally split managerial control that are likely to have used the SSS most often, with 10.3% using the immigration service and 22.0% the non-immigration service. Organisations with majority male managerial control were the least likely to use the service, with 5.9% using the immigration and 13.2% the non-immigration SSS. 7.8% of majority female managerial controlled organisations used the immigration service and 18.8% the non-immigration advice service. Further, female managerial controlled organisations that used the services had used them more often than those with male majority and split managerial control. They were also significantly more likely to use the non-immigration SSS on more than ten occasions, with 28.6% of organisations doing so, compared to 19.4% of male majority and 19.7% of split managerial controlled organisations doing so.

While female-managed firms were noticeably more likely to use non-immigration SSS than male-managed firms, the changes we are proposing will mean that SSS services continue to be available equally to male and female managed organisations, thereby leaving existing usage proportions unaffected.

Long-term ill or disabled managerial control was rare, as was take-up of the SSS by offices with long-term ill or disabled managerial control. Thus, analyses showed no significant differences.

22. Rural Proofing

22.1 Table 9, below, compares the urban and rural location of supplier organisations using the SSS, broken down into solicitors and NFP bodies. The urban / rural location was determined by a supplier's bidzone. As can be seen, suppliers using the service are overwhelmingly (90%) located in urban areas, reflecting their known existing distribution. However, the percentage of suppliers within each area remained relatively similar (23% of urban suppliers used SSS in comparison to 18% of rural ones); as did the proportion of solicitors to NFPs in each case (86% / 17% in urban areas compared to 82% / 13% in rural ones). This would suggest that the impact of our proposals will not affect rural suppliers any more adversely than urban ones.

Table 9. Breakdown of SSS users by Urban or Rural location.

Type of User	Urban	Rural
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	Total No. that Used Service	% of Users Located in an Urban Bidzone	% of Suppliers located in Urban Bidzones that used Service	Total No. Used Service	% of Users Located in a Rural Bidzone	% of Suppliers located in Rural Bidzones that used Service
All LSC Contracts	1007	90%	23%	111	10%	18%
Solicitor	640	90%	17%	75	10%	13%
NFP	367	91%	86%	36	9%	82%

22.2 Other than the information relating to the urban or rural location of suppliers, above, neither the LSRC nor the LSC as a whole is able to provide data in relation to the rural status of the eighteen SSS providers in their SSS capacity. In the absence of such data, it is impossible to assess at this stage whether the proposals in relation to the SSS, to organisations currently in receipt of SSS funding and their users, would affect rural interests adversely, or to what extent. The LSC is, however, committed to address the current data shortfall, and we would particularly welcome the contribution of any relevant statistics from interested parties.

23. Small Firms Impact Test

Most, if not all, of the LSC's providers are small businesses. Their interests are represented by the Law Society, the Bar Council, ASA and the Legal Aid Practitioners Group (LAPG) with whom the LSC will consult. The LSC will also make the consultation proposals available to all interested parties via its website, giving them an opportunity to comment. While no disproportionate impact on small firms has been identified to date, the LSC particularly welcomes their input into the consultation process. We will re-evaluate all current assumptions following the responses received.

24. Competition Assessment

Having referred to the Office of Fair Trading (OFT) competition filter test, no significant impact on competition has been identified as a result of the our proposals in relation to the SSS.

25. Legal Aid Impact Test

There will be no negative impact on the CLS Fund. The substantive £613,350 saving made from the withdrawal of the national SSS training programme, together with any other ancillary savings, will be redirected towards new matter starts, as set out in the consultation paper. There will be no additional costs in terms of implementation of our proposals relating to the SSS, hence,

the proposals will have no impact on the level of spending currently incurred by the LSC on Legal Aid.

26. Enforcement, Sanctions and Monitoring

The LSC is committed to monitoring both the overall impact of the proposals on interested parties, and any projects subsequently funded under the new criteria and process, following implementation of the new proposals.

27. Implementation and Delivery Plans

Details of implementation and delivery plans will be provided in the full regulatory impact assessment to be published following the completion of the consultation.

28. Post Implementation Review

We will monitor and evaluate the impact of the proposals following implementation and will report on findings in accordance with our statutory duties and the LSC Equality Scheme.

29. Compensation Simplification Measures

The Cabinet Office has published interim guidance on compensatory simplification, to be applied when producing regulatory impact assessments. The interim guidance requires government bodies to actively look for opportunities to simplify or remove existing requirements when they want to introduce new regulation, and to assess both the extent to which any simplification proposals will offset the cost of the new regulatory measure and the impact of removing the existing provision.

These proposals do not provide firms or NfP providers with any additional or reduced regulatory burdens. They aim to revise and improve the existing criteria and application process, realigning them with the CLS Strategy and current LSC corporate priorities.

The LSC therefore anticipates that the proposals will make a positive contribution to the Government's objectives to simplify and reduce the burdens of regulatory systems.

30. Summary and Recommendation

The LSC recommends the introduction of the new proposals, retaining and reinforcing a reformed SSS, continuing with a modified and re-tendered consultancy service; withdrawing funding for direct casework referrals and paying for these cases at the standard rate of remuneration through the Unified Contract; withdrawing funding for training courses and aligning the service with the CLS Strategy and current LSC corporate priorities.

31. Contact Point

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Please let us know if you agree with this analysis and its conclusions.