

Equalities Impact Assessment: Contributing towards Accreditation Costs

1. Introduction

Since April 2002, when we introduced the Specialist Quality Mark (SQM), the LSC has reimbursed providers' accreditation costs. The reimbursement scheme played an important role, ensuring providers could fund the accreditations required to meet our quality requirements and helping gain acceptance for the SQM. Changes must now be made to the scheme to ensure future viability and value for money.

The discussion paper 'Quality in Legal Aid - SQM Outsourcing' in June 2009 stated that we would phase out reimbursement of accreditation costs from 2010. Because of feedback received, we have undertaken further work. The LSC relies heavily on accreditation in our quality strategy and is promoting the use of accreditation through 2010 bid round criteria. An abrupt cessation of reimbursement could also impact on all legally aided providers, especially Immigration providers going through re-accreditation, harming client access. Therefore, a contribution approach, which improves control and value, but continues to assist providers has been proposed, to be implemented from the 2010 contracts.

2. Proposal details

The proposals are to:

- 1) Reduce contributions to either a) 50% of the current cost of accreditation, or b) 100% of the current cost of the cheapest route – whichever is the cheapest per category. We believe this to be a reasonable compromise between the need to live within a restricted fund and need to manage the impact on practitioners.
- 2) Extend the contribution scheme to include accreditation via the Family Mediation Council. This removes the inconsistency that we currently only pay for family meditation accreditation via the Law Society panel route.
- 3) No longer make a contribution towards Clinical Negligence accreditation. Providers compete for a substantial private client CFA market, and so have other important incentives to obtain accreditation. It is not appropriate that LSC contributes to a cost that very many firms would expect to incur regardless of their involvement in legal aid work.
- 4) Fix the accreditation contribution budget. Once it is exhausted during the financial year, potential applicants for accreditation contributions will need to delay their claims until the following financial year.
- 5) All requests for a contribution towards accreditation must be made within 6 months of award.

Based on these proposals (and similar numbers of caseworkers continuing to apply for contributions) LSC expenditure on accreditation costs in 2010/11 will total approx £650,000. If no changes are implemented, the budget for 2010/11 rises to £826,500.

As the proposed changes are to be brought in mid-year, these figures above do not easily lend themselves to assessing impact. On a full year basis, under the new proposals, LSC expenditure for accreditation would be approx £554,500. This is £272,000 lower than the £826,500 if no changes are made. The £272,000 would need to be funded by providers and / or caseworkers. It is estimated that 3,000 caseworkers will apply for contributions in the next 12 months therefore, on average, the provider or caseworker will need to contribute an additional £91 per accreditation. Bearing in mind, the shortest accreditation lasts for 3 years, this equates to an average increase of £30 per caseworker per year. If no contribution was made (as originally proposed) an estimate of the average cost per caseworker would be approximately £127 per year.

3. Objectives and Benefits

The objectives of the proposals are to:

- Enable a smooth transition towards the LSC not paying for quality assurance. By setting the contribution level at 50%, an abrupt cessation of support is avoided, but we are limiting the claims on our limited budget. This is particularly crucial as large scale re-accreditation schemes are about to be introduced which will significantly increase total costs of contributing to accreditation.
- Ensure a consistent approach to organisations running robust accreditation schemes which are required for contractual compliance
- Target our funding on categories where the contributions towards accreditation are most needed.
- Have fiscal control of the contribution budget

The benefits of this will be to:

- Support providers' ability to have suitably qualified supervisors and caseworkers
- Ensure value for money and move towards funding only our core responsibilities
- Control expenditure

4. Groups that will be affected (stakeholders)

The main sectors affected by these plans are:

Stakeholder	Main Impact
<p>Existing legal aid providers who undertake Family, Family Mediation, Clinical Negligence, Mental Health, Immigration and Crime work</p>	<p>Will have to contribute more towards accreditation costs.</p> <p>Across all schemes Under the proposals, the average increase in cost per individual for accreditation / re-accreditation is approximately £30 per year. For the majority of categories, only the supervisor needs to be accredited. It is not expected that this additional cost would significantly impact the financial viability of a provider.</p> <p>For Immigration, all caseworkers need to be accredited. This will have a greater impact on providers. Currently the LSC contributes 70% of Immigration accreditation costs.</p> <p>For Crime, all caseworkers who attend at the police station need to be accredited. Currently the LSC contributes between 50-86% of Crime.</p> <p>If an application for LSC contribution is made and the budget for accreditation funding has been exhausted, the providers / caseworkers will need to bear the full costs until the following financial year. The budget will be set each year bearing in mind any significant pressures, e.g. introduction of a re-accreditation scheme. Therefore</p> <ul style="list-style-type: none"> - the funding should not run out for the majority of the year - caseworkers will be able to apply within the 6 month time limit - the delay in contribution should not overly impact the provider / caseworker cashflow. <p>In most cases, where the provider / caseworker is particularly concerned, they should be able to time the accreditation such that they can make a claim for contribution at the start of a financial year, ensuring quick payment.</p> <p>Immigration</p> <p>For Immigration the maximum accreditation amount currently not met by the LSC is £211 for a level 2 caseworker. If the LSC contribution is reduced to 50% then an additional £125 will be incurred by providers. The accreditation will last for either 3 or 5 years. If it lasts only 3 years, the increase in cost to caseworkers / providers is £42 per year per caseworker. It is not expected that this additional cost would significantly impact the financial</p>

	<p>viability of a provider.</p> <p>The cost of Immigration re-accreditation will be approximately £250. With LSC contributing 50%, a provider will need to contribute £42 per year per caseworker for re-accreditation if it lasts for three years.</p> <p>Crime</p> <p>For Crime, the maximum accreditation amount currently not met by the LSC is £322 for a CLAS fee earner. If the LSC contribution is reduced to 50% then an additional £340 is required. The most recent scheme has lasted 5 years, but if the time is reduced to 3 years, this is an increase of £113 per year per caseworker. Bearing in mind that the CLAS fee earners are the most qualified crime fee earners and can command the highest earnings, we do not expect an increase in cost of up to £113 per year will financially impact on a provider so greatly that they have to stop undertaking legally aided work. In contrast, for a police station accredited rep, the increase in cost is just £15 – an increase of just £5 per year.</p> <p>Crime re-accreditation has not yet been developed, but costs are not expected to be higher than current accreditation rates and may well be lower.</p> <p>Clinical Negligence</p> <p>Another category affected more than others is Clinical Negligence where it is proposed the full cost of accreditation (£529) is borne by the provider. The accreditation lasts for 5 years and only the supervisor needs to be qualified - a cost of approx £100 per year. Bearing in mind the level of privately funded work carried out by Clinical Negligence providers, it is not expected that £100 per year for a supervisor will financially impact on a provider so greatly that they have to stop doing legally aided work. Based on previous claim levels, this is likely to affect approximately 42 individuals per year.</p>
<p>Solicitors and third-sector organisations who may in future undertake legal aid work in the categories of Family, Family Mediation, Clinical Negligence, Mental</p>	<p>The cost and expected impact are the same as detailed above for existing providers. There is no reason to think that the level of additional costs will change the economic decision taken by a potential provider regarding whether to undertake legal aid work.</p>

Health, Immigration and Crime work	
Employees of providers who undertake legal aid work in the categories of Family, Family Mediation, Clinical Negligence, Mental Health, Immigration and Crime work	This will depend on how the providers currently fund accreditation costs. It is believed that in most cases the provider meets the remaining accreditation costs. If this is the case, there is no direct effect on the employee. If the employee meets the remaining costs, they will need to increase their current contribution from between £5 - £113 per year depending on the panel. We do not believe that such a level of costs will financially impact on an individual so significantly that it determines whether they can / are willing to undertake legally aided work.
Clients	No direct effect. Providers must not pass on the cost of the accreditation onto their legal aid clients. In terms of access, we do not expect an increase in cost of up to £100 per caseworker per year to affect the financial viability of a provider so greatly that they have to stop doing legally aided work.
Representative bodies	No direct effect

5. Source of information

The Legal Services Research Centre (LSRC) collects detailed information about the diversity of people working in firms with legal aid contracts through a survey sent to all service providers. This is used to inform the LSRC annual diversity report, which contains information about ethnicity, gender, age and disability in the legal aid sector. The most recent report is the eighth annual diversity report, published in 2009. The main sources of information that we have relied on to support the conclusions in this impact assessment are taken from this report, together with legal aid fund spend information held on all our live contracted providers.

The LSC will consult informally on the EIA. The EIA will be posted on the LSC website alongside the original discussion paper 'Quality in Legal Aid - SQM Outsourcing' for 6 weeks. We will also share the EIA with key legal advice services representative bodies including: ASA, Law Society, LAPG and other practitioner groups.

The specific data referred to where relevant can be found in annex 1.

6. Relevance of equality strands

The LSC will not stop contributing to accreditation costs, as originally proposed, but it intends to reduce the level of contributions. Either providers or individual supervisors and caseworkers will therefore be meeting more of

the accreditation costs. The increase in cost per year is between £5 – 113 per year per accreditation.

The biggest impact will be on:

- 1) providers with lower legal aid fund take, as the percentage cut into their profit margins will be greater
- 2) providers who undertake crime and immigration work, because all caseworkers must be accredited
- 3) where providers require the individuals to meet the costs, those individuals on lower salaries, as the percentage cut into their salary will be greater

Providers who undertake clinical negligence work are not included because even though the contribution will reduce to £0, this will lead to a cost of £100 (less than the biggest cost increase of £113) per year and only the supervisor needs to be accredited.

If the increased costs were to fall disproportionately heavily on firms from one equality strand, the effect of the policy might be indirectly discriminatory.

	Yes	No	Not known
Age	X		
Disability	X		
Gender	X		
Race	X		
Religion or belief		X	
Sexual orientation		X	

Race

12% of providers with the SQM are owned or managed by BME groups. BME firms are more likely have fewer fee earners – 75% of BME controlled have under 10 fee-earners as opposed to 62% of white controlled firms who have under 10 fee-earners. However, looking at fund take, such firms are represented equally in each fund take band. Despite the smaller number of fee earners they are not over represented in the lower earning bands. We do not hold any data on overall fee income, but it appears likely that legal aid forms a greater proportion of the fee income of smaller BME providers. This could mean that they would have to pay a greater proportion of their total fee income towards attaining and retaining the accreditation. However, even for smaller providers, with an increased cost of between £5-£113 per year per individual accredited, the impact should not be sufficient to disproportionately affect the financial viability of a BME managed / owned provider.

There has been anecdotal information that a greater proportion of Immigration providers are owned or managed by BME groups. It is acknowledged that all Immigration caseworkers who have had accreditation extensions need to be re-accredited in 2010. However, the total cost is likely to be approx £250,

which means that £125 will need to be paid for each caseworker. This equates to only £42 per year per caseworker, and the original accreditation has lasted for over 5 years – longer than the usual 3 year accreditation period. Bearing this in mind, the impact of Immigration re-accreditation should not be sufficient to disproportionately affect the financial viability of a BME managed / owned provider.

Gender

22% of providers with the SQM are owned or managed by women, 18% have split ownership. Firms owned or controlled by women are just as likely to have under 10 fee-earners as male controlled firms – 24% for male or female controlled firms. When looking at fund take, there are some differences in the percentage fund take of female owned and controlled firms as opposed to male owned and controlled firms:

16% of female controlled firms earn between 0-10k.

27% of female controlled firms earn between 11-24k although

28% of female controlled firms earn between 50-99k

This data is presented in detail Annex One table 4.

A greater proportion of female owned and managed firms earn over 25k which means the impact of increasing accreditation cost by between £5-£113 per year per individual accredited, will be very limited. Overall whilst female owned or managed organisations will be affected by the plans, it does not appear that the impact will be disproportionate.

Disability

Only 1.1% of providers with the SQM are owned and managed by people with disabilities or a long-term illness. Annex One table 3. This figure is too low to provide any meaningful analysis.

We do not believe that the proposals will have any differential impact with those in control of SQM providers based on them having a disability or long-term illness.

Age

The Legal Services Research Centre holds information on the age of people in control of providers with the SQM. This data is presented in Annex One table 4.

We do not believe that the proposals will have any differential impact with those in control of SQM providers based on their age.

Religion and Belief and Sexual Orientation

The LSC does not hold any information on the religion and belief or sexual orientation of people in control of publicly funded legal services so we cannot perform any kind of meaningful analysis.

However, we do not believe that any of the current proposals will have any differential impact on people based on their religion and belief or sexual orientation.

Mitigation of Impact Overall

Our initial proposal was to stop making any contributions towards accreditation costs from the introduction of the 2010 contracts. We then considered options to minimise the impact on all organisations. We believe that the current proposals support all groups through the transition period, but also move the LSC closer to our objective of not paying for quality assurance.

An abrupt cessation of reimbursement could also impact on all providers, especially Immigration providers going through re-accreditation, harming client access. Therefore, a contribution approach, which improves control and value, but continues to assist providers has been proposed, to be implemented from the 2010 contracts.

We will monitor the impact of the policy over the next 3 years. We will do this in a number of ways:

- From October 2010, we will have a database recording withdrawals down to the office and category level. We will periodically review the data to check there is no significant withdrawal from a particular category of law. If there is, we will look into why these providers have withdrawn, and if the change in accreditation payments has played a part.
- We will monitor the number of individuals who apply for accreditation contributions. If there are any significant changes in application levels, we will look into the reasons why.
- At least initially, we will include accreditation on the Provider Reference Group meeting agendas. After the initial period, accreditation may not be a permanent item, but it will still be an opportunity for the providers to raise any concerns about the impact of accreditation contributions.

8. Conclusion

The main impact of the proposed changes is to existing providers who carry out legal aid in the categories of Family, Family Mediation, Clinical Negligence, Mental Health, Immigration and / or Crime. The average impact on a firm is an increase of approximately £30 per year per accredited staff member.

The categories most affected will be Immigration and Crime, where all caseworkers need to be accredited. For these categories, the increased cost per caseworker is approximately £42 per year for an Immigration caseworker and between £5-£113 per year for Crime fee earners depending upon the level accredited to.

We do not expect costs of this level to impact providers so greatly that it affects their ability to carry out legally aided work. Bearing this in mind, a full impact assessment is not required on this proposal. We will continue to monitor the impact of the policy for the next three years.

ANNEX ONE:

The source of all of these tables is the Legal Services Research Centre.

Table 1

This table shows the proportion of offices with an SQM and a positive fund take that have a majority White British, BME and Split ownership and control in 2008.

		White British	BME	Split	White British	BME	Split
Fund Take	Firm Size	Count			Row %		
Up to £10k	Sole	3	0	0	100	0	0
	2-5	42	5	1	88	10	2
	6-10	13	2	0	87	13	0
	11-15	5	0	0	100	0	0
	16-40	9	1	1	82	9	9
	41-60	2	0	0	100	0	0
	61-100	1	0	0	100	0	0
	101+	1	0	0	100	0	0
	Total	76	8	2	88	9	2
£11k-£24k	Sole	8	1	0	89	11	0
	2-5	48	9	0	84	16	0
	6-10	25	2	0	93	7	0
	11-15	15	2	0	88	12	0
	16-40	8	1	0	89	11	0
	41-60	1	0	0	100	0	0
	61-100	5	0	0	100	0	0
	101+	1	0	0	100	0	0
	Total	111	15	0	88	12	0
£25k-£49k	Sole	20	2	1	87	9	4
	2-5	84	14	4	82	14	4
	6-10	56	10	2	82	15	3
	11-15	27	2	0	93	7	0
	16-40	39	1	2	93	2	5
	41-60	16	0	0	100	0	0
	61-100	6	0	0	100	0	0
	101+	1	0	0	100	0	0
	Total	249	29	9	87	10	3
£50k-£99k	Sole	25	5	0	83	17	0
	2-5	139	25	8	81	15	5
	6-10	107	13	5	86	10	4
	11-15	33	4	1	87	11	3
	16-40	59	6	1	89	9	2
	41-60	19	0	0	100	0	0

£100k-£499k	61-100	20	0	0	100	0	0
	101+	1	0	0	100	0	0
	Total	403	53	15	86	11	3
	Sole	44	9	3	79	16	5
	2-5	384	80	29	78	16	6
	6-10	323	55	22	81	14	6
	11-15	128	17	6	85	11	4
	16-40	140	10	7	89	6	4
	41-60	33	0	1	97	0	3
	61-100	20	0	3	87	0	13
	101+	8	1	0	89	11	0
Total	1080	172	71	82	13	5	
£500k-£999k	Sole	4	0	0	100	0	0
	2-5	48	6	1	87	11	2
	6-10	111	19	12	78	13	8
	11-15	94	12	2	87	11	2
	16-40	74	4	2	93	5	3
	41-60	10	1	0	91	9	0
	61-100	3	0	0	100	0	0
	101+	2	0	0	100	0	0
	Total	346	42	17	85	10	4
£1m-£1.9m	Sole	0	0	0	0	0	0
	2-5	4	0	0	100	0	0
	6-10	13	3	6	59	14	27
	11-15	25	8	4	68	22	11
	16-40	48	11	1	80	18	2
	41-60	4	0	0	100	0	0
	61-100	2	0	0	100	0	0
	101+	2	0	0	100	0	0
	Total	98	22	11	75	17	8
£2m-£2.9m	Sole	0	0	0	0	0	0
	2-5	0	0	0	0	0	0
	6-10	0	2	0	0	100	0
	11-15	1	0	0	100	0	0
	16-40	9	4	2	60	27	13
	41-60	3	0	1	75	0	25
	61-100	2	0	0	100	0	0
	101+	2	1	0	67	33	0
	Total	17	7	3	63	26	11
£3m+	Sole	0	0	0	0	0	0
	2-5	0	0	0	0	0	0
	6-10	0	0	0	0	0	0
	11-15	0	0	0	0	0	0

	16-40	2	1	0	67	33	0
	41-60	1	0	1	50	0	50
	61-100	1	0	0	100	0	0
	101+	2	0	0	100	0	0
	Total	6	1	1	75	13	13
Grand Total		2386	349	129	83	12	5

Table 2

This table shows the proportion of offices with an SQM and a positive fund take that have a majority male, female or split ownership and control in 2008.

		Male	Female	Split	Male	Female	Split
Fund Take	Firm Size	Count			Row %		
Up to £10k	Sole	2	1	0	67	33	0
	2-5	37	8	3	77	17	6
	6-10	9	1	5	60	7	33
	11-15	0	2	3	0	40	60
	16-40	4	2	5	36	18	45
	41-60	2	0	0	100	0	0
	61-100	1	0	0	100	0	0
	101+	1	0	0	100	0	0
	Total	56	14	16	65	16	19
£10k-£24k	Sole	6	2	0	75	25	0
	2-5	35	13	8	63	23	14
	6-10	17	6	3	65	23	12
	11-15	11	6	0	65	35	0
	16-40	6	3	0	67	33	0
	41-60	1	0	0	100	0	0
	61-100	3	2	0	60	40	0
	101+	0	1	0	0	100	0
	Total	79	33	11	64	27	9
£25k-£49k	Sole	12	5	4	57	24	19
	2-5	54	24	23	53	24	23
	6-10	43	12	13	63	18	19
	11-15	19	6	4	66	21	14
	16-40	13	18	12	30	42	28
	41-60	5	11	0	31	69	0
	61-100	1	3	2	17	50	33
	101+	0	1	0	0	100	0
	Total	147	80	58	52	28	20
£50k-£99k	Sole	19	9	2	63	30	7
	2-5	100	39	35	57	22	20
	6-10	87	15	22	70	12	18

	11-15	28	7	3	74	18	8
	16-40	27	28	11	41	42	17
	41-60	3	13	3	16	68	16
	61-100	4	13	3	20	65	15
	101+	1	0	0	100	0	0
	Total	269	124	79	57	26	17
£100k- £499k	Sole	27	22	7	48	39	13
	2-5	297	92	105	60	19	21
	6-10	266	59	74	67	15	19
	11-15	104	21	25	69	14	17
	16-40	116	24	17	74	15	11
	41-60	18	10	5	55	30	15
	61-100	9	9	5	39	39	22
	101+	6	3	0	67	33	0
	Total	843	240	238	64	18	18
£500k- £999k	Sole	2	1	1	50	25	25
	2-5	35	10	9	65	19	17
	6-10	105	17	20	74	12	14
	11-15	70	20	20	64	18	18
	16-40	58	11	11	73	14	14
	41-60	9	1	1	82	9	9
	61-100	3	0	0	100	0	0
	101+	1	0	0	100	0	0
	Total	283	60	62	70	15	15
£1m-£1.9m	Sole	0	0	0	0	0	0
	2-5	4	0	0	100	0	0
	6-10	17	2	3	77	9	14
	11-15	26	7	4	70	19	11
	16-40	41	12	7	68	20	12
	41-60	2	1	1	50	25	25
	61-100	2	0	0	100	0	0
	101+	2	0	0	100	0	0
	Total	94	22	15	72	17	11
£2m-£2.9m	Sole	0	0	0	0	0	0
	2-5	0	0	0	0	0	0
	6-10	0	1	1	0	50	50
	11-15	1	0	0	100	0	0
	16-40	8	6	1	53	40	7
	41-60	3	1	0	75	25	0
	61-100	2	0	1	67	0	33
	101+	1	0	2	33	0	67
	Total	15	8	5	54	29	18
£3m+	Sole	0	0	0	0	0	0

	2-5	0	0	0	0	0	0
	6-10	0	0	0	0	0	0
	11-15	0	0	0	0	0	0
	16-40	3	0	0	100	0	0
	41-60	2	0	0	100	0	0
	61-100	0	1	0	0	100	0
	101+	2	0	0	100	0	0
	Total	7	1	0	88	13	0
Grand Total:		1793	582	484	57	22	12

Table 3

This table shows the proportion of offices with an SQM with majority ill/disabled, non-ill/disabled, and split ownership and control in 2008

Majority control in 2008	N	%
Ill/disabled	21	1.1%
Non-ill/disabled	1802	97.7%
Split	20	1.1%
Total:	1843	100%

Table 4

This table shows the proportion of offices with ownership and control by age of those with ownership and control

Age	2008	2008
	Solicitors	NFPs
18-24	0.2	0.8
25-34	10	9.8
35-49	46.7	38.9
50-59	34.1	32.6
60-64	7.7	8.6
65-70	1.1	5.3
70+	0.4	4