

**Legal Services Commission (LSC) Response to a Consultation Paper from the Ministry of Justice (MoJ) on Legal Aid: Funding Reforms
10 November 2009**

Introduction

The LSC welcomes the consultation “Legal Aid: Funding Reforms”, and supports the broad aims of the paper as far as Legal Aid Fund expenditure is concerned. This paper gives the LSC’s formal response. We will be writing separately on administrative costs.

Police Station Fees

The proposal concerns fixed fee reductions in certain areas based on a set of specified criteria. The MoJ preferred option here is to reduce remuneration in schemes where the fee is above the median rate, and where the scheme is oversubscribed (in duty solicitor terms) by a factor of 400%.

The LSC agrees with the principle employed here. We believe that it is right to narrow gaps between fixed fees where these are wide and not justified by the particulars of the local market. We also agree with the rationale provided in light of the delay to BVT; in the absence of a competitive solution to over-subscription it makes sense to place some downward pressure on prices to meet the same ends, these being achieving a level of savings and driving rationalisation within the market.

Litigators Graduated Fees / Committals for Trial

This option proposes that in future remuneration for committals for trial hearings would only be payable at the conclusion of the Crown Court element of the case. This differs to current arrangements where committals bills are submitted at the conclusion of the hearings in the magistrates’ courts and prior to the Crown Court element being heard. As well as changing the point at which the matter can be billed, the proposal also specifies a fixed fee (with no exceptional arrangements) of £318 (exc. VAT) for committals hearings, which would bring about savings of around £11m.

The LSC fully supports the proposal. We believe that the problem the proposal seeks to address (the double payment for materials review at both the Magistrates’ and Crown Court) is real and should be addressed.

Advocates Graduated Fee Scheme

Under this proposal MoJ seek to reduce AGFS rates and indicate that they would look to narrow the gap between CPS and Defence rates, which is currently 23%.

The LSC agrees with this proposal.

Very High Cost Criminal Cases (VHCCs)

MoJ have indicated their intention of reducing VHCC rates by 5% in the near future. The LSC supports this.

Experts Fees

The proposal is to reduce expenditure on experts' fees in the long term by 20%, and in the short term to set maximum rates in crime and civil cases with limited provision for exceptions. These rates are based on current MOJ guideline rates used as a benchmark by CPS and HMCS and intend to harmonise rates paid to experts in both the civil and criminal fields across all government departments and the LSC.

The LSC supports the rationale for reform here and the basic principles. We are working with the MOJ to refine these. The major risk here concerns the continued provision of experts in fields where downward pressure is applied to rates. As the consultation paper itself recognises, experts are not a captive market and they do have alternatives outside of publicly funded work. It will be important to address this.

File review under the CDS Contract 2010

This proposal is to align the forthcoming Crime Contract with the current Civil Contract in not paying for file review. The LSC supports this proposal.

I hope you will find this response useful. If you have any queries about its contents, please do not hesitate to contact Derek Hill, Director of Policy, at derek.hill@legalservices.gov.uk.

Yours sincerely

Bill Callaghan
Chair
Legal Services Commission