

Otterburn Legal Consulting Report into impact on the criminal legal aid supplier base of Lord Carter's proposed fixed fees from April 2007: Explanatory note

1. Today we are publishing Andrew Otterburn's paper which was on the potential impact on the criminal supplier base of the fixed fee arrangements recommended by Lord Carter. This is previously confidential research commissioned by the Legal Services Commission.
2. The Government and LSC considered the research alongside a range of other information, much of which has already been made public, and over 2,000 consultation responses, in deciding how to take forward Lord Carter's recommendations.
3. Andrew Otterburn's paper builds on his earlier work for Lord Carter, which was published in advance of the final Carter report (<http://www.legalaidprocurementreview.gov.uk/docs/otterburn-lca-survey-2005-research-2006.pdf>). Otterburn's initial analysis informed Lord Carter about the state and make-up of the supplier base, and helped him to bring together a package of reforms which would deliver the Government's objectives and which he judged were sustainable for suppliers.
4. In his report to the LSC Andrew Otterburn took the same survey data as before to model the potential impact of Lord Carter's proposed fee schemes. Because of limitations with the data-set in the first report (much of the analysis on profitability is taken from data on only 38 firms), and difficulties in quantifying any available short-term efficiency savings, Otterburn experienced difficulty in assessing the potential impact on the supplier base. His personal view, however, was that implementing the Carter proposals in a sector currently adjusting to a reduced demand for publicly funded work would be challenging, against the background of existing fees and prior to suppliers making further efficiency savings.
5. Andrew Otterburn presented his interim report to the LSC in October 2006, and his final report in November. The Government carefully considered this work along with numerous other views on the impact that the proposals may have on both individual suppliers and the market as a whole. We then published our final proposals in 'Legal aid reform: the Way Ahead' on 28 November 2006. We took Lord Carter's report as a routemap for reform, and made clear that competition is vital to ensure a sustainable market by allowing prices to both rise and fall, depending on local market conditions. We also made changes both to the outline timetable and to the detail of the fee schemes in response to these representations, to ease the transition to best value competition.
6. Therefore, whilst Andrew Otterburn's work helped to inform some of these changes to Lord Carter's original proposals - especially around the timetable – it is important to note it does not assess the potential impact of the 'Way Ahead' proposals and the more detailed proposals developed since. The Government and LSC continue to consult on these.

**Legal Services Commission and Department for Constitutional Affairs
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