

STANDARD MONTHLY PAYMENTS RECONCILIATION PROTOCOL

1 General

- 1.1 LSC's objective is to pay a sum each month which is regular in amount and which results in neither a balance in favour of the legal aid provider nor LSC at a point of review. When LSC set payments their aim is to achieve a 100% reconciliation balance.
- 1.2 LSC will give at least one month's notice of a change to an SMP.
- 1.3 LSC aim to provide as stable a cash flow as possible and make the minimum number of interventions. LSC will use a standardised reconciliation process that reconciles legal aid providers' claims across a defined period and makes no interventions provided the cumulative balance of claims to payments is within a plus/minus 10% band. The band will be calculated as plus/minus 10% of claims over the period the Contract has run or the last 12 months claims, whichever is the shorter.
- 1.4 LSC's general approach will be to limit the amount of liability that can be accrued on either side. If accounts get out of balance LSC will aim to reconcile cash balances within a 6 month period.
- 1.5 When a legal aid provider's Contract ends, and is replaced by a new contract, LSC will continue to operate these provisions on an ongoing basis.
- 1.6 When a legal aid provider's Contract ends, and is not replaced, the right to a Standard Monthly Payment also ends.

2 Reconciliation Approach

- 2.1 LSC will monitor claims to payments on a monthly basis and when the balance is outside the 10% band LSC will amend future payments.
- 2.2 LSC will conduct a twice yearly review of suppliers' monthly claims to payments (this will generally be in September and March of each contract year but may vary in some circumstances such as implementation of revised fee schemes etc). Following that review if a decision is made to amend future

payments in accordance with the Protocol LSC will provide at least one month's notice of the change which will take place the following month (i.e. review in September based on claims to payments for February to July inclusive, notice in October, amendment in November).

2.3 LSC's approach in undertaking the review will be:

- (a) Consider the balance of claims to payments to date and define the value of the cumulative variance (i.e. the level of any current underpayment or overpayment).
- (b) Where the balance of claims to payments is outside the 10% band the value of the variance to 100% will be brought forward into the monthly SMP amount to be paid in the next 6 months.
- (c) Where the balance is within the 10% band then payments will remain at the current level.
- (d) Where LSC amends payments, the SMP for the following 6 months will be a combination of the average claim value of the preceding 6 months and the variance.
- (e) LSC will set a maximum band of plus/minus 50% (calculated on the same basis as the 10% band in paragraph 1.3 above) that can be reconciled by changes to SMP alone. If at any time the balance is outside the 50% band then this will trigger an exception review. In these circumstances the variance will be paid or recouped over the following 3 months by ad hoc payments or debits and the SMP reset to the average claim value of the preceding six months.
- (f) In the same way, if following a review, a legal aid provider's account remains outside the 10% range for a period of 3 consecutive months, despite resetting payments under 2.3 (b) above, the variance will be paid or recouped over following 3 months by ad hoc payments or debits.

3 Further Guidance

- 3.1 Criminal legal aid providers requesting a pull forward of 7.5% (of previous 12 months claims) will have a balance target of 92.5% instead of 100% (of previous 12 months claims) for the purposes of setting future payment levels. For the avoidance of doubt this does not change the position that where the balance is outside the 10% band at any point then payments will be amended.
- 3.2 All reconciliations will be based on matching an equal number of claims with payments i.e. like for like claims and payments period.
- 3.3 LSC estimates that it currently has 303 civil and 110 criminal legal aid providers whose annual claim value is less than £2,500. It is proposed that, with the agreement of these legal aid providers, no SMPs will be set but ad-hoc payments are made at the 6 month automatic review.
- 3.4 LSC will look to develop a template reconciliation tool to be made available via the intranet for suppliers to forecast their own reconciliation activity (this will reduce the need for extended notice periods as suppliers will be able to see the effect their claims values will have approximately 2 months earlier).
- 3.5 Exceptions to the process will still need to be defined. These include setting SMPs for new firms, mergers and expansions or where “nil” submissions distort claiming patterns. LSC will need to define transitional arrangements so that all suppliers’ balances are in a position for this protocol to be implemented.

4 Transition to the SMP Reconciliation Protocol

- 4.1 LSC will define transitional arrangements so that all legal aid providers’ balances are in a position for this protocol to be implemented. LSC will also need to consider the transitional provisions for NfP legal aid providers to manage their move to fixed fees from payment by caseworker.