

**Invitation to Pre Tender Meeting for Community Legal Advice
Specialist Family Telephone Advice Contract**

09 June 2008

Questions and Answers

Introduction

Following the progress of the Community Legal Advice Specialist Family Telephone Advice Pilot, the Legal Services Commission (the "LSC") is intending to offer clients this service on a permanent basis, and therefore in August 2008 we will be inviting tenders from organisations interested in delivering this service.

To assist in gaining stakeholder input, we invited interested parties to an 'Open Day Meeting', to provide more information about the service we wish to procure, the tender process, and to facilitate a general discussion.

Set out below are the questions asked by participants during the presentation and, where possible, we have provided a full answer¹.

Please note that as we have still to finalise a number of issues, this document does not contain the final details of the service or the tender process. All the information you will require to tender to deliver this service will be set out in the 'Information for Applicants' ("IFA"), which will also contain the formal invitation to tender.

Questions and Answers

Q.1

Can you confirm the dates and timescale of the tender process?

A.1

Although we cannot confirm any precise dates at present, we hope to have the full service up and running by December 2008 or early 2009.

We intend to publish the invitation to tender, which will be contained within the 'Information for Applicants' document, in late August 2008.

The final timescale of the actual tender process is still to be decided upon but will be set out in the IFA. However, we anticipate the process will take around 2 to 3 months from the date the IFA is published to the award of contract(s); this will also depend on the numbers of bids received.

There will be some flexibility around the specific start date of the service and this will be discussed with the successful organisations. We would expect all providers to have commenced running the service by, at latest, 1st February 2009.

¹ A previous version of this document (version one) was published on our website on or around the 13 June 2008. Please note that this document (version two) replaces version one, which should be disregarded.

Q.2

How many contracts do you intend to award?

A.2

We have not set either a maximum or minimum number of contracts to be awarded. However, we would anticipate that the service would be delivered by more than one organisation.

Providers will be invited to tender for a proportion of the hours of advice available and contracts will be awarded following assessment of all the tenders against the criteria set out in the IFA.

Q.3

Will the pilot providers definitely get contracts?

A.3

Not necessarily - it will depend on whether their tender is successful. This will be an open invitation, inviting tenders from existing providers (including those who took part in the pilot) and new entrants to the market. All tenders will be assessed against the criteria set out in the IFA.

Q.4

How many advisers will each provider need?

A.4

The LSC will not prescribe how many advisers each provider will need.

Instead, we will ask organisations to tender for a proportion of the hours of advice on offer. Assuming the quality of advice is satisfactory, the LSC will place no restriction on either the number of advisers delivering advice or the proportion of adviser time that is spent delivering the service.

However, whilst there is no minimum or maximum number of advisers needed in each organisation, as detailed in the presentation, preference will be given to providers who are able to be flexible with the number of advisers they have available to meet the demand for services.

Q.5

Will you award contracts based purely on price?

A.5

No. Tenders will be assessed on both quality and value for money. This will be explained further in the IFA.

Q.6

Will preference be given to those who can offer other categories of law as well as family?

A6

No, this invitation to tender is only for the provision of family advice services.

Q.7

Will you look less favourably at smaller providers, as they won't be able to provide as many hours?

A.7

No, we are looking first and foremost at quality and then at price. We will appoint those providers that enable us to meet our requirements for delivering the service.

Q.8

Are we looking for any geographical correlation between where the telephone advisers are based and where the clients are calling from?

A. 8

No. Clients from all over England and Wales call the Operator Service. If they are eligible for legal aid, the Operator Service will put the call through to a provider. As this is telephone advice it will not matter where either the client or the provider is geographically located, save that clients calling from Wales who are Welsh speaking will be transferred to a Welsh-speaking provider.

Q.9

Are providers required to have an adviser available Monday to Friday 9am to 6.30pm?

A.9

The service is currently open Monday to Friday, 9.00am until 6.30pm, and advisers must be available to accept calls throughout this period. In order to manage peaks and troughs in call volumes throughout the day, and to allow providers flexibility so they can ensure that their advisers have time to carry out the necessary casework for clients, providers will be assigned rota slots.

During these rota slots, providers must ensure that they have the required number of advisers logged in ready to receive calls. Rota slots are allocated according to contract size, with larger providers allocated a higher number of rota slots. When advisers are not on the rota, they will be conducting casework for clients. It is for the providers to manage their own rota slots as they see fit, so to allow advisers time to complete casework.

Q.10

What about Saturday opening?

A.10

We are considering Saturday opening. If we decide that we require the service to be offered on a Saturday we will set this out in the IFA.

Q.11

Do advisers have to work explicitly on the helpline or can they carry out other work for the firm as well?

A.11

How providers decide to manage the CLA helpline is up to them, provided they comply with the contractual requirements. Providers may choose to employ advisers who work solely on the helpline or they may choose to rotate their advisers between other departments – e.g. to ensure the advisers receive a broad mix of work. It is the provider's responsibility to ensure the quality of advice given by advisers meets the contractual requirements, regardless of how much time is spent working on the helpline.

Q.12

Do advisers have to be based in the office or could they work from home?

A.12

The contract will contain the provider's office address(es). That is where we expect the vast majority of advice to be delivered from. If any providers wish to provide the advice from elsewhere (e.g. from an adviser's home address), they must contact the LSC to agree such a change in advance. Home working (or a similar arrangement) would be the exception rather than the rule. Any home workers would have to have arrangements in place that enable them to comply with the contract – e.g. telephony, IT requirements and the Data Protection Act 1998.

Q.13

Will larger providers get a greater allocation of calls?

A.13

Providers will bid for a proportion of the hours available. Those providers that are awarded a greater allocation of the hours receive a greater allocation of the calls, provided they managed their operation as efficiently and effectively as possible (e.g. see rota slots above). Larger providers will need to ensure they do this, as they will need more cases than small providers in order to fulfil their contracted hours.

Q.14

What level of legal experience is expected from the advisers?

A.14

The level of experience of all advisers delivering the service will be confirmed in the IFA and the contract. All organisations must employ at least one supervisor who meets the Family Supervisor Standard as set out in the LSC's Specialist Quality Mark (SQM). If an organisation bids for a large contract, we would expect to see a 'supervisor to adviser ratio' which is adequate for the level of supervisor required, and so it may be that more than one supervisor is required.

Q.15

How far can we take a case on the telephone?

A.15

Currently advice is provided to a client from Legal Help up to Family Help Lower. We are considering whether it is possible to provide advice over the telephone that will include the issue of proceedings and representation. The final details of the levels of advice organisation will be required to deliver under the service will be set out in the IFA.

The definitions of these levels of services are set out in our Funding Code (see www.legalservices.gov.uk/CommunityLegalService/CivilLegalAidEligibility)

The Funding Code covers advice and assistance in resolving that dispute through negotiation or otherwise. It excludes the issue of proceedings or representation in proceedings other than help in obtaining a consent order following settlement of a Family Dispute.

Q.16

Many clients, for example, domestic violence cases, are likely to need face-to-face representation and won't be able to have their case dealt with by a telephone adviser. How will you deal with this?

A.16

Firstly, the Operator Service will carry out an initial diagnosis of the client's case and will filter out those clients who require face-to-face representation and signpost them straight to a face-to-face provider.

Secondly, if a client reaches a telephone adviser and the adviser feels that the client needs face-to-face advice, the adviser will use the Community Legal Advice directory (on the CLA website) to locate face-to-face providers in the client's geographical area and signpost the client to those providers.

Where a provider has already taken on a case and it becomes apparent at a later stage that face-to-face representation is needed, the provider will use the Community Legal Advice directory and signpost the client to a local provider. If the provider has

a face-to-face contract itself, it may refer the client to its own department, provided the client lives in the vicinity. Rules on referrals will appear in the contract.

Q.17

What about emergency cases?

A.17

As above, if the Operator Service receives a call from a client requiring emergency representation and/or urgent face-to-face advice, they will refer the client to a face-to-face provider.

However, the Operator Service will also consider the best interests of the client and if the client is unable to obtain face-to-face advice or calls in the evening when face-to-face services are likely to be closed they will (if eligible for Legal Aid) be transferred to a telephone adviser so to receive some advice prior to the hearing.

Q.18

If a client has already received Legal Help over the telephone can they then receive Legal Help again from a face-to-face provider?

A.18

Yes, however a provider operating under a Unified Contract with the LSC (i.e. the LSC's contract with its providers for the provision of face to face Legal Help) will have to consider the rules under that contract in relation to the opening of Legal Help cases.

Q.19

Can we make an internal referral to our own firm for face-to-face advice?

A.19

Yes, if it is in the interests of the client (i.e. because your organisation is situated within the same locality as the client). Also see Q16 above.

Q.20

Is there a risk of telephone providers having 'preferred suppliers' that they refer to?

A.20

This is not a situation that has been identified as a problem to date in the operation of the CLA service. Telephone advisers speak to clients from all over England and Wales and must refer a client (using the CLA Directory) to their closest provider. Therefore, there is little scope for this to happen.

Q.21

How does the Operator Service carry out the means test?

A.21

The Operator Service completes the full Legal Help means assessment according to the LSC's rules on means assessment and financial eligibility. Details of the assessment, including the partially-completed Legal Help form, are then available (via a Case Handling System) to the family telephone adviser who the case is referred to.

Q.22

Is it the responsibility of the telephone provider to obtain the evidence of means?

A.22

Yes, it is the provider's obligation to do this. Rules will be set out in the contract. Providers are able to provide up to 2 hours of telephone advice (plus 12 mins to refer a client on where appropriate) to clients without having evidence of means on file. In order to proceed beyond the 2 hour limit, providers must obtain full and accurate evidence of means from the client. Best practice dictates that providers will send out the Legal Help Form for signature and return with evidence of means at the start of the case, so that evidence is on file ready for when a case needs to proceed beyond the initial 2 hours.

Due to potential difficulties in receiving the signed Legal Help Form and evidence of means back in time, some of the current CLA providers have developed relationships with e.g. CABs so that the client can take their evidence and signed form to the CAB, which will then fax these to the provider to save time (and then send hard copies in the post).

Q.23

Can you confirm who the client belongs to, the LSC or the telephone provider? How does this affect any conflict issues?

A.23

The client's retainer is with the organisation that delivers the advice. The LSC does not have a direct relationship with the client to deliver legal advice. The usual conflict checks should be undertaken by providers once the client has been referred to them by the Operator Service. In a conflict situation, the client should be referred to another of the telephone providers or a face-to-face provider. Many providers will also have to comply with any regulatory rules governing conflict issues that apply to them.

Q.24

Are we required to send client care letters?

A.24

Providers must comply with the contract's Quality Standards (adapted from the LSC's SQM), which will contain provisions on what must be confirmed to the client in writing. Briefly, clients must receive written confirmation of advice given unless exceptional circumstances apply (e.g. the client specifically requests that you do not do this). In addition, CLA providers must meet a minimum Peer Review rating in each contract year and should, therefore, conduct their files in such a way that they manage to achieve this.

Another point worth noting is that many organisations will have rules to follow laid down by their regulatory authority on what information client care letters must contain.

Q.25

How do we get paid at the end of a case?

A.25

Providers will be required to invoice us monthly, detailing the total amount of hours worked on both open and closed cases during that month (i.e. you bill us for work in progress/ WIP). Providers will be paid for work done according to their invoices, calculated at their contractual hourly rates.

Hours worked under the contract are supported by reports submitted monthly by the providers. The contract will contain provisions allowing the LSC to audit work done on any case at any time, to check that the amount billed for WIP throughout the life of a case is equal to the total amount paid for that case once it is closed. The contract also provides for recoupment in the event of any overpayment.

Q.26

In the presentation you mentioned that providers would be expected to 'pass on additional savings to the LSC'. What do you mean by this?

A.26

What this means is that providers will be expected to pass on any economies of scale and savings they make to the LSC. For example, if we were to expand a provider's contract during the contract term (maximum expansion limits will be contained in the IFA and contract), it may be that the provider would be able to reduce their hourly rate as their number of hours increased. Another example – if, as a result of expansion of this contract or its business in general, a provider moves out of expensive city centre offices to an out of town development at a cheaper cost, it may be able to reduce the hourly rate and still stay within its intended profit margin.

Q.27

Do you have plans to introduce fixed fees for this area of work?

A.27

Not for the term of this contract. We will need to see how the profile of the service might change before making any decisions in this area.

Q.28

What level of disclosure of the pilot project will there be?

A.28

We aim to have an interim evaluation of the pilot published in August 2008. This will include details of the case profiles to date, including call volumes, categories of work and case lengths. The full evaluation will be based on the full year's data and will therefore not be available until after October 2008.

Q.29

What is the current hourly rate being paid to the pilot project providers?

A.29

This information is currently confidential to the providers. We will, however, give a guideline in the IFA as to the highest rate we are likely to pay.

Q.30

From the pilot experience have there been professional indemnity insurance requirements?

A.30

Under the contract, all providers must meet all relevant requirements concerning indemnity insurance set by their recognised representative body (where they have one) and, as a minimum, must be indemnified against loss of up to £1 million in each and every claim under the SQM. Current requirements will be checked prior to publication of the IFA and contract to include updated limits, where necessary.

Q.31

How will the statutory charge apply in telephone cases?

A.31

We had special arrangements for the purposes of the pilot. We will be reviewing this issue and full details of how the statutory charge will apply will be set out in the IFA.

Q.32

Are BSS (the Operator Service provider) excluded from applying for this tender?

A.32

BSS are not excluded from tendering, but our current understanding is that they are unlikely to submit a tender.

Q.33

How is confidentiality protected?

A.33

If this question refers to client confidentiality, the contract will contain detailed provisions on this – briefly, that providers must respect client confidentiality at all times (and as required by any relevant regulatory rules).

If this question relates to confidentiality regarding the provider's contract, again, the contract will address this. The usual commercial contract provisions on confidentiality and Freedom of Information will be contained in both the IFA and the contract.

Q.34

What is the overall budget for the family telephone helpline?

A.34

The budget is £1m 2008/2009 and is currently planned to be £4m per year thereafter (both these figures are inclusive of VAT). However, LSC budgets are set each financial year and this amount will be subject to review.

Q.35

Can you give us an idea of the size of the organisations that are currently providing the pilot service?

A.35

The pilot providers are:(a) a solicitors firm employing 3.6 Full Time Equivalent (FTE) advisers to work on the helpline, (b) a solicitors firm employing 2.2FTE advisers on the helpline, and (c) a registered charity/ not for profit organisation employing 2.2FTE advisers on the helpline. We have not included details of the actual size of the organisations, as in headcount, number of offices etc.

Q.36

When a client calls back does s/he go through to the same number at the Operator Service?

A.36

No, each provider issues the client with what is termed a 'back door' number. This is a distinct non-geographic (0845) number that enables the client to get back in touch with the provider that is progressing their case without going via the Operator Service.

Note, however, that if a client were to call the provider on its 'back door' number a few months down the line regarding a different, new matter, the provider would have to direct the client back to the Operator Service, as a fresh means assessment would have to be carried out. If eligible, the client would then be passed through to an available provider and could, if s/he wanted, ask that provider to direct him/her to the original provider.

Q.37

Is there any assistance as to capital infrastructure?

A.37

No. Bidders are expected to include any start up costs etc in the hourly rate they tender at.

Q.38

What languages does the Operator Service provide?

A.38

BSS employ operators that speak English and Welsh; in addition they use 'Language Line', a three way translation service which enables them to communicate in another 170 languages.

Q.39

Are there any commercial call centres providing this service at present?

A.39

No. We have previously contracted with commercial call centres to deliver telephone advice services, but there are none at present.

Q.40

Can the LSC provide prospective service providers with data from the pilot which sets out the number of calls that were referred for face to face legal advice by BSS, distinguishing between those whose cases were deemed unsuitable for the pilot and those referred simply due to problems of capacity?

A.40

The LSC does not currently collect enough information to fully answer this question.

During the pilot approximately 20% of family cases are referred to telephone specialists. This is due to the limited nature of the pilot and the fact that there are currently only 8 FTE Family Specialist advisers.

The remaining 80% would either be signposted to face-to-face advice, given details of another helpline or referred to an information resource (e.g. a leaflet or relevant website). Of those that were referred to face-to-face we do not collect information on whether this was because the pilot was at capacity or that this was in the best interests of the client.

In other areas of law handled by the Operator Service where there are no such capacity issues approximately 15% of cases are referred to face-to-face.