

22 June 2007

Dear Colleague,

We have today announced final fixed fee schemes for family and family mediation, mental health and police station work, together with changes to the Funding Code for child care proceedings. We have also announced a further consultation on duty solicitor slot allocation for Police Station and Magistrates' Court work from October 2007, and within the next few days we expect to publish a consultation on proposals to introduce a graduated fee scheme for litigators in the Crown Court.

Each of the schemes and consultations published today is detailed in papers available on the LSC's website at www.legalservices.gov.uk. Regulatory Impact Assessments accompany each of the papers. A short description of each fee scheme, or proposed fee scheme, is enclosed with this letter.

These papers continue our development and implementation of the detailed proposals set out in Lord Carter's review, which were consulted on in "Legal Aid: A Sustainable Future", and the decisions following this consultation which were set out in "Legal Aid Reform: the Way Ahead" (November 2006).

In addition the Government has today published its response to the Constitutional Affairs Committee report on the legal aid reform programme. This response confirms the Government's and the LSC's intention to proceed with the reforms of legal aid as set out in The Way Ahead.

The papers we are publishing today continue the process of implementing fixed and graduated fee systems in all of the major elements of the legal aid scheme. The fee schemes published today for family and mental health cases complement those already announced for immigration and asylum cases and for legal help in the social welfare categories. We will be continuing this programme with a consultation on proposals for level 4 in private family law cases and advocacy in public law cases later this year.

The implementation of the fixed fee scheme for police station cases and the consultation on the litigators graduated fee scheme for Crown Court cases continues the process of moving wholly to the use of fixed fees for all criminal cases (excluding VHCCCs). This will be completed when the final litigators fee scheme is implemented following consultation.

Fixed fees will give us greater budget certainty and ensure a more transparent basis for competition. They offer you predictable payments and an opportunity to increase your profit if you are able to deliver high quality and accessible services at lower cost.

Fixed fees are also an essential step in enabling us to re-balance the civil and criminal legal aid budgets and ensure that we continue the trend of the last two years and increase the number of people helped year on year. Fixed fees for some types of work have already played a big part in enabling us to do that and we will now build on that success as we move ahead with the reforms.

Thank you to those of you who have taken the time to give us your views on the fee schemes and funding code changes through consultation responses and meetings. You will see that we have made changes to both the schemes themselves and some of the timings for their introduction to reflect your views.

Our role is to deliver an efficient legal aid system which provides value for money to taxpayers and helps as many eligible people as possible. We believe that a market-based system is the best way to achieve this but we recognise that we first need to ensure that the system is working as efficiently as possible.

Our goal is to create the best possible framework for competition and we look forward to working with many of you to achieve this. We plan to begin the formal consultation process for best value tendering for criminal work later this year, with a view to phasing in its introduction from October 2008. We will also be gathering your views ahead of consultation to ensure that they are reflected in our early planning.

We plan to introduce best value tendering for civil work gradually from 2009, although we will proceed with small scale tendering exercises in the meantime as part of the development of Community Legal Advice Centres and Networks for social welfare law and family services. We may also use it to help us fill gaps in services that occur from time to time. This approach will help us ensure that we move towards a market in civil legal aid gradually and sustainably.

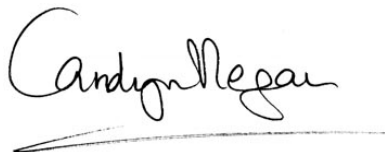
As you know, ensuring quality services for legal aid clients is at the heart of these reforms. We have today announced a joint consultation with the Ministry of Justice on an important element of this: a proposed quality assurance scheme for publicly funded criminal advocates practising at Crown Court level and above. The consultation paper can be found on our website.

Your organisation should receive an email update from us today about these announcements and other LSC news. We plan to issue these fortnightly in future to keep you better informed about the legal aid reform programme and how you can prepare for the changes. The email updates will provide very brief summaries of the latest news, with links to our website for further information. Please circulate them to your colleagues.

We are piloting this email update using our current database of email addresses. We are continuing to refine this with your help. If your organisation does not receive the email please contact us to update our database by going to the **Help** section of the LSC's website: www.legalservices.gov.uk

This letter cannot set out in full what we are announcing and consulting on and I encourage you to look at the information on our website to ensure that you have a good understanding of these important reforms.

Yours sincerely

A handwritten signature in black ink, reading "Carolyn Regan". The signature is written in a cursive style and is positioned above a horizontal line.

Carolyn Regan
Chief Executive
Legal Services Commission

Summary of announcements:

Police Station reforms including the final fixed fee scheme

Between February and April this year, the LSC consulted on proposals for Police Station reforms including the introduction of new boundary areas, fixed fees and working arrangements (which incorporated a suggested minimum contract size and proposed changes to slot allocations).

Fixed fees for police station work will be introduced from 1 October this year. However, the LSC is delaying any decision on the introduction of new working arrangements (including minimum contract sizes, out of area working and slot allocations) until the conclusion of the further consultation on slot allocation.

In respect of amendments to boundary areas we have decided that where there is no clear advantage in creating larger boundary areas at this stage, the existing schemes will remain in place for the time being. However, where there has been scope for rationalisation of schemes, or where local practice already treats separate schemes as a single rota, we have reflected these in the final schemes.

Consultation on Duty Solicitor Slot Allocation

We consulted on the principles of slot allocation as part of the Police Station Reforms consultation. In that paper we explored the possibility of using historic volumes to determine slot allocation from October 2007. However, it is apparent from work carried out in relation to the interim Market Stability Measures consultation that this is not a viable option at this time due to issues with the underlying data. This consultation paper sets out alternative options for duty solicitor slot allocation from October 2007.

Consultation on Quality Assurance Scheme for Advocates

This joint Ministry of Justice/LSC consultation proposes a quality assurance scheme for publicly funded criminal defence advocates practising at Crown Court level and above. Responses will be used to inform a pilot scheme that will run for 6-12 months and which is likely to test several possible approaches to ensure that the result is a robust, proportionate and affordable scheme.

Following implementation, evaluation and review it is anticipated that the scheme will be adapted to apply to all publicly funded advocates.

Family Fees Scheme

Family Help Private

The LSC is introducing new fixed fees for the first two levels for Family Help Private from 1 October 2007. Levels 3 & 4 for Family Help Private (work relating to interim and final hearings and, therefore, involving advocacy) will be delayed. We will respond to consultation on level 3 in due course and will consult on level 4 at a later stage with a view to implementing changes from summer 2008.

Care Proceedings

New fixed fees are being introduced, set at three levels, for the Care Proceedings Fee Scheme from 1 October 2007. The scheme includes all care proceedings cases at level 1 and all care and supervision (and related) proceedings at levels 2 & 3. It excludes Emergency Protection Orders and advocacy.

Practitioners will still get paid hourly rates for exceptional cases with the threshold at level 1 & 2 combined being x3 the fixed fee and the threshold at level 3 being x2 the fixed fee. Panel uplifts won't be paid on fixed fees but will apply to hourly rates. They won't be included when calculating whether a case is exceptional.

Where the client transfers from one solicitor to another and costs are less than the standard fee, half the fee is paid. Where the costs are equal or more, the full fee is paid. Exceptional cases are still paid in full.

We will consult on our approach to advocacy in public law family at a later date with a view to bringing in changes from summer 2008.

Draft Unified Contract Specification

The Family Category Specific section will be finalised shortly and published alongside the other sections of the Unified Contract's Specification in early July.

Family Mediation

We are aligning the fee schemes for profit and not-for-profit family mediation services so that the same amount is paid for the same work, regardless of the service provider.

The Funding Criteria for Child Care Proceedings

Residential Assessments

The cost of residential assessments, including pre-assessments or viability assessments undertaken to consider whether a residential assessment is appropriate, will, subject to Parliamentary approval, be removed from the scope of legal aid funding from October 2007. We are having discussions with colleagues in the Department for Education and Science and the Welsh Assembly Government about issues arising from this change.

Appropriate use of funding test

We will not be introducing merits criteria for Special Children Act proceedings at this time. However, subject to Parliamentary approval, we will introduce a test as to whether a child is in need of separate representation from other children who are subject of the proceedings. We will also introduce a merits test for parents and people with parental responsibility who, in the absence of any conflict of interest, can be protected by being jointly represented with another party.

We remain of the view that introducing further merits criteria is right in principle, but that it is appropriate to first let the new family fee scheme bed in. We will review the existing Procedures and Guidance and consider amending the Funding Code to make it clear that the reporting obligations apply to public law proceedings. We will keep the introduction of merits criteria under review.

Mental Health Fees

The new fixed fees will be introduced from 1 January 2008. This delay in implementation will enable us to run bid rounds to secure services in areas where supply may be at risk. Providers can expect further details of our plans for the bid rounds in July.

A single set of national fees for mental health practitioners will be retained because their clients can be detained in parts of the country some distance from where they are based and many providers work across regional boundaries.

The fees are fixed at four levels: two separate Level 1 fees (one for Mental Health Review Tribunal (MHRT) cases and one for non-Tribunal related cases); a Level 2 fee for MHRTs and a Level 3 fee for MHRTs. There is also an 'Adjourned Hearing Fee'. Exceptional cases – based on costs on hourly rates reaching three times the fees - will still be paid hourly rates.

Travel and waiting is included in the fees as are counsel costs to keep the fee schemes as simple as possible. However, we are introducing additional travel payments for remote hospitals where we consider that access might otherwise be at risk.

As with all the fee schemes, disbursements are excluded. Disbursements can be particularly expensive for mental health cases because of items such as psychiatric reports, the cost of which service providers cannot control.

Draft Unified Contract Specification

The Mental Health category specific section of the Unified Contract's Specification has also now been published on our website for consultation. We are also asking providers to comment on our definition of remote hospitals.