

Final fixed fee scheme for mental health

The LSC has published the fixed fees for legally aided mental health work that will now come into effect on 1 January 2008.

Following consultation on the mental health fees last year, and an extensive review of nearly 1,000 mental health case files, the basic structure of the proposed scheme has been retained, but several improvements have been made to address issues raised by legal aid practitioners, representative bodies and other stakeholders.

In 2006/07, the LSC funded over 34,000 mental health legal aid cases. The new scheme will play an important part in ensuring quality legal assistance is provided to some of the most vulnerable people in our society, regardless of where they live or where they have been detained. In many cases this will involve protecting their fundamental right to liberty.

Commenting on the publication of the fees, Carolyn Regan, the LSC's Chief Executive, said:

"The fee scheme is designed to maintain access to quality advice for clients, including those in hospitals in remote areas and those with exceptionally long and complex cases.

"It is important to stress that these new fees will not reduce the mental health legal aid budget. The fees have been calculated on the 2005/06 budget, which is greater than the 2006/07 budget.

"The schemes are part of the overall reform of legal aid which is designed to ensure we have a sustainable system in the long-term. The new fixed fees will allow us to control and safeguard expenditure. They will also help providers adjust the way they work in anticipation of the next step of best value tendering."

The improvements made to the scheme include:

- increasing the Level 1 Mental Health Review Tribunal (MHRT) fee
- creating a separate Level 1 fee for non-MHRT work
- reducing the 'exceptional case' escape threshold - when cases will be paid at hourly rates - from 4 times to 3 times the total fixed fees for the case
- introducing 'travel uplifts' to selected remote hospitals to encourage access
- enabling a new matter to be started when there is a change in section type
- introducing separate payments for adjourned and cancelled hearings so that providers are not unfairly penalised for delays in the MHRT system

Disbursements - such as fees for independent expert reports - will continue to be paid separately from the fixed fees. The fees will be kept under review to ensure they are still working in the way intended and maintaining access for clients while providing budget control.

The majority of mental health providers nationally (75%) will see an increase in their average cost per case (based on 2005/06 figures) under the scheme.

A new mental health advisory group, which includes clients, legal practitioners, government departments and statutory agencies, has recently been set up to advise the LSC on mental health legal services. We will consult with the group regularly on access and whole system issues as we move towards best value tendering.

A six-week consultation on a new contract specification setting out how the new mental health fees will be reflected in the unified contract from January 2008 is also published today. A final Regulatory Impact Assessment accompanies the mental health fixed fees. The new fee scheme will be introduced through regulations and the unified contract. Stakeholders will be consulted on the detail of the regulations in the next few weeks.