



## **Implementing legal aid reform**

Government response to the Constitutional  
Affairs Select Committee report



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### **Government response to the Constitutional Affairs Select Committee report**

**Presented to Parliament  
by the Lord Chancellor and Secretary of State for Justice**

**By Command of Her Majesty  
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## Implementing Legal Aid Reform

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## Implementing Legal Aid Reform

## Introduction

1. The Government is pleased to take this opportunity to respond to the Committee's recent report, "Implementation of the Carter Review of Legal Aid". We are grateful for the Committee's wide-ranging inquiry into the Government's proposals to reform the legal aid system, and in particular its support for the fundamental aims of the reforms and its recognition that there is an urgent necessity to control legal aid expenditure. The Government is committed to reforming the legal aid system so that it is placed on a sustainable basis for the future and we are able to continue to help people who would otherwise be unable to afford good quality legal advice and representation.
2. We have provided a summary overview of the legal aid reform programme, as well as a detailed response to the points highlighted in the Committee's report. As the Committee noted, the detail of legal aid procurement is both complex and evolving. The Government and the Legal Services Commission continue to refine the detailed proposals as implementation progresses. As a result a number of the points made by the Committee since it undertook its inquiry earlier this year have already been addressed.

## Summary

### Overview

3. The Government considers the provision of legal aid as a fundamental underpinning of the justice system, enabling access to justice for those who cannot afford to pay for legal advice and representation. The Ministerial Foreword to the command paper *A Fairer Deal for Legal Aid* describes the legal aid system as “one of the proudest legacies of the progressive post-war Labour governments”.<sup>1</sup> The Government spends around £2 billion per year on legal aid, which means in England and Wales we pay more per capita for legal aid than anywhere else in the world.
4. The Government and the Legal Services Commission (LSC) welcome the Committee’s Report and its recognition (paras 53-66) that it is right to move from remuneration based on time spent to remuneration based on effective services delivered to the client, and that in due course levels of remuneration should be based on market factors. Such principles are increasingly common in the provision of professional services of all types, including legal services.
5. The Government and the LSC have a duty to maximise value for money partly in their role as public bodies, but, more importantly, because better value for money means more people being helped within the available resources. Getting more help to people who need it within these parameters is one of the over-arching aims of the reform programme. The other is to make sure that our legal aid system works with the wider justice systems in a way that makes the whole justice process operate more effectively.
6. Hence the new fee schemes are designed to give providers a stake in the running of the justice system, and the Ministry of Justice and the LSC are ensuring that the wider system does not impose unnecessary demands and costs on legal aid. We are doing this through, for example, Local Criminal Justice Boards and the quarterly legal aid stakeholder update meetings, and by

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<sup>1</sup> Department for Constitutional Affairs, *A Fairer Deal for Legal Aid* (July 2005) Cm 6591, p.5

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participating fully in initiatives such as Criminal Justice: Simple Speedy Summary (CJSSS). The new Ministry of Justice, with its responsibility for the administration of justice, is well-placed to help take forward this whole system reform work.

7. Legal aid costs have been increasing, without accompanying improvements in outcomes for clients, since at least the early 1990s. One of the ways the LSC and its predecessor, the Legal Aid Board, have slowed this growth is through the partial application of fixed and graduated fees to pay for legal aid work. As the Committee's Report states, such fees have been introduced in several areas of legal aid over the past 15 years, and have been beneficial in terms of overall service delivery.
8. The Government anticipated that the better targeting of legal aid, the replacement of the Legal Aid Board by the Legal Services Commission, and other changes, such as contracting, introduced through the Access to Justice Act 1999, would enable the delivery of services to continue to improve at affordable cost. However, faced with continuing escalation in costs without apparently commensurate improvements in delivery, in 2004 the Lord Chancellor commissioned work that led to the publication of *A Fairer Deal for Legal Aid* in July 2005.
9. *A Fairer Deal* pointed to the need for more efficient and effective criminal trials, and the way that a small number of criminal cases absorbed a hugely disproportionate share of the budget. It emphasised the targeting of resources where they are most needed, on civil and family advice and assistance, to help as many people as possible. The paper pointed to the growth of legal aid spending, from £1.5bn in 1997 to over £2bn in 2004, which had masked a 37% real terms rise in criminal legal aid spending over this period, compared to a 24% decline for civil and family legal aid (excluding asylum).
10. Whilst the availability of free legal representation at a criminal trial to those defendants who cannot afford to pay for it is a fundamental right, such assistance needs to be properly balanced with civil and family legal aid. In fact it is increasingly well recognised that effective civil advice can be a significant factor in reducing re-offending. *A Fairer Deal* set the strategic goal of containing overall legal aid spending, in particular on criminal legal aid, to allow some rebalancing towards civil advice and assistance.
11. *A Fairer Deal* made clear that in order to achieve this goal, legal aid procurement needed reviewing, with options including price competition, bulk

contracting, and lead suppliers. Lord Carter of Coles was invited to undertake an independent review of how such reforms could be delivered. He conducted a detailed review, including full discussions with providers and their representative bodies, and reported in July 2006<sup>2</sup>. Lord Carter recommended that there should be a more widespread move to fixed and graduated fees, as a prelude to market based competition. The existing fixed and graduated schemes would act, in effect, as pathfinders for their near-comprehensive introduction, prior to competition. In civil and family, the changes should be implemented on a cost neutral basis. In criminal, there was scope for reducing expenditure in certain schemes.

12. The Government and LSC immediately launched a full public consultation on Lord Carter's final recommendations, and accompanying LSC proposals for the civil fee schemes, in the paper *Legal aid: a sustainable future*<sup>3</sup>. Following consultation, the Government reconfirmed its commitment to procurement reform and announced the intended shape of the new fee schemes, in *Legal aid reform: the Way Ahead*<sup>4</sup>. This made adjustments to the detail, timing and sequencing of the reform programme, and set out the overall strategic aim of best value competition, following an interim period of fixed and graduated fees.
13. A great advantage for providers of tendering is that they will be able to bid for work at a level which reflects their particular costs – overheads, working practices, geographical factors – whilst still making a reasonable profit. We expect competition to reveal, for any particular area, the lowest price at which the LSC can procure a sustainable service that delivers quality, access and value. Taxpayers will know that the profit made by providers is not excessive or unfair, because it will have been subject to competition. Those firms that innovate and can offer a better all round service will thrive. Clients will be reassured by the strict minimum quality thresholds in place, and should benefit from the improved access that we expect to accompany competition. Those seeking civil and family advice and assistance will be more likely to find it if the

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<sup>2</sup> Lord Carter of Coles, *Legal aid: A market-based approach to reform* (July 2006)

<sup>3</sup> Department for Constitutional Affairs and Legal Services Commission, *Legal Aid: a sustainable future* (July 2006) CP 13/06

<sup>4</sup> Department for Constitutional Affairs and Legal Services Commission, *Legal Aid Reform: the Way Ahead* (November 2006), Cm 6993

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resources available to legal aid are properly balanced, and work is carried out as efficiently as possible. The wider justice system will benefit because defence practitioners will have an incentive to progress cases quickly and effectively.

14. A further advantage for providers is that a market-based system will remove the difficulties and uncertainties that accompany administratively set prices. This opens the way for a more co-operative and transparent relationship between the LSC and providers in the future. The future nature of the market will be set, above all, by the needs of clients and the LSC's duty to achieve value for money – that is the right balance between quality and cost. We believe that those aims can be met by rigorous quality procedures and competition.
15. Neither the Government nor the LSC wish to see a particular market structure for its own sake. But it seems reasonable to expect that in some, particularly urban, areas the consequence of our approach, and other changes to the legal services market proposed in the Legal Services Bill, will be a trend towards larger firms with a smaller number of contracts. In other areas, a market based on smaller firms with easy access to the market for new entrants might be the most appropriate model. In any event, our policies cannot be based on promoting or preserving a particular market structure for its own sake if we are to maximise benefits for clients and taxpayers. Our policies will be driven by the need to provide suitable levels of access and quality for clients at a fair price.
16. It is unrealistic to expect providers to move straight to such a market-based system. The existing system of fixed and graduated fees already in place in some areas of legal aid needs to be expanded as an interim step to competition. They reward those providers who increase their efficiency, for example by cutting down on elements such as travel and waiting. In so doing they help firms gain an understanding of the true costs of their businesses, and help them to prepare for competition, by acting as a baseline.
17. Fixed fees create a more transparent pricing structure ahead of competition and drive a consistent approach to meeting client need in any particular case, and thus help ensure that competition will work effectively. Fixed and graduated fees also offer providers predictability of payment and the chance better to plan their businesses. More widely, fixed fees also help protect services to clients by controlling increases in costs per case, and go some way to safeguarding the legal aid budget from dramatic cost increases.

18. Each of the new schemes is designed in accordance with the needs or requirements of the area of the justice system that it supports. Most schemes will be implemented from October 2007 onwards – an extension of the timetable as originally consulted on, following the requests of providers, and over two years after the publication of *A Fairer Deal*.
19. We agree with the Committee that procurement reform offers an opportunity to ‘address shortcomings and inefficiencies in the current system’ (para 11 of its report), and that the principle of best value tendering is the right one (para 139). Whilst all change or reform involves risk, doing nothing will allow inefficiencies to risk future provision. We need to act decisively if reductions to scope and eligibility are to be averted.

#### **Criminal legal aid**

20. An effective defence is necessary to ensure justice within an adversarial system which is why quality lies at the heart of our proposals for reform. The LSC already operates a strict system of quality control across the legal aid system, and we are looking to extend this. We are today publishing a consultation paper on Quality Assurance for Advocates in the Crown Court and above. In the future, we plan to make further improvements to quality assurance across the full spectrum of legal aid work.
21. The reforms to criminal legal aid as proposed in blue print form in *The Way Ahead*, following on from Lord Carter’s recommendations, will encourage efficiency both by providers, and in the wider justice system. Criminal legal aid is an integral part of our criminal justice system (CJS). The way in which legal aid is procured is part of this impact. For example, fixed fees can drive efficiency, affecting practitioner behaviour at the police station or at court. Similarly, prices set by competition will send powerful price signals about the relative cost of different parts of the justice system. But procurement reform is not the only driver of change. The Ministry of Justice and the LSC are engaged in initiatives such as *Criminal Justice: Simple, Speedy, Summary* (CJSSS), to increase the efficiency of the courts. The LSC is collaborating with other CJS partners to reduce unnecessary costs for defence practitioners arising from the way courts or police stations are run. It is encouraging that in some areas practitioners have already taken the initiative to secure efficiencies in collaboration with the courts.

22. In terms of legal aid procurement, *The Way Ahead* recognised that a market-based system could not take effect immediately. Fixed fees for legal aid work in police stations; revised fees for magistrates' courts in urban areas; a revised Crown Court graduated fees scheme for advocates; a new litigators' Crown Court graduated fees scheme; and a new panel of providers authorised to provide services in Very High Cost Cases (VHCC) were therefore all essential steps on the way.
23. Since publication of *The Way Ahead*, there have been further consultation papers on some of the specific proposals. The Regulatory Impact Assessment (RIA) issued with *The Way Ahead* contained clear impact data for those policies that were finalised and needed no further consultation, which in the case of Criminal Legal Aid, was limited to the proposal to introduce revised fees for magistrates' courts in April 2007. This impact assessment was augmented by a second RIA produced in advance of implementation of this policy in March 2007.
24. We introduced the revised advocates' graduated fee scheme for the Crown Court in April 2007, as announced in *The Way Ahead*. A consultation paper on Police Station Reforms (including boundaries, fixed fees and new working arrangements) was issued in February 2007, accompanied by a draft RIA containing an assessment of the effect of the proposals. Decisions on the first phase of the reforms, which together aim to introduce fixed and graduated pricing across all schemes, will be completed this summer, and many of the final proposals will accompany the present paper.
25. The LSC will shortly publish a further consultation document on aspects of litigators' fees in the Crown Court (this follows up the first consultation last July); as well as a consultation on how duty solicitors' slots at the police station and magistrates' court should be allocated from October 2007; and our response to the consultation on police station fees. While we intend to introduce fixed fees for police station work, we have decided that we will not generally increase the size of boundary areas for the present outside a few changes necessitated by local changes in circumstances (eg closure of a police custody suite).

### **Civil legal aid**

26. Civil legal aid, which encompasses family legal aid (constituting the bulk of civil spending), asylum and immigration legal aid, and various elements of social

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welfare law, has always been focused on areas of priority need. New fee schemes for introduction over the next few months have now been finalised and announced following extensive consultation: a Tailored Fixed Fee replacement scheme (initial advice and assistance) was announced with *The Way Ahead* and will apply from October 2007; that for immigration and asylum was announced in March and will apply from October 2007; those for family private help and for help and representation by solicitors in child care cases are announced today and will apply from October 2007 (though 'Level 3' and advocacy have been deferred to July 2008 and will be the subject of further consultation as already envisaged for advocacy); and that for mental health, also announced today, will apply from January 2008.

27. Our aim, as set out in *A Fairer Deal* and *The Way Ahead*, is to contain overall spending and, as far as possible, to rebalance resources away from criminal and towards civil and family legal aid, in order to help more people, particularly the vulnerable, who face social exclusion if their legal problems are not resolved. That means encouraging efficiency in the civil and family sectors and paying for outcomes delivered. Strict quality controls will, again, ensure that standards are maintained.
28. Between 2004/05 and 2006/07 we increased spending on civil and family legal aid by over 20% in resource terms and the proportion of the total budget (excluding immigration) devoted to it rose from 35% in 2004/05 to 39% in 2006/07. The number of new civil and family acts of assistance (excluding immigration) rose from under 600,000 to nearly 800,000 – with a particularly strong rise in the not-for-profit sector. This is an increase in face to face advice as well as new forms of delivering civil legal aid such as court duty schemes and telephone advice. The increase in assistance has occurred in all parts of the country, as is shown in the annexed tables (which update, to the full year 2006/07, ones provided at Annex B to the Memorandum to the Committee submitted in March 2007). There has been some increase in the budget for civil and family help over this period, but also a substantial improvement in provider effectiveness – the average cost of an act of assistance fell from £270 to £210. The Government and LSC want this trend to continue, and expect the further moves towards fixed and graduated fees to contribute to it. The LSC has set a target of 850,000 new civil and family acts of assistance for 2007/08.
29. In developing the Community Legal Service, the LSC is also ensuring it is purchasing and delivering services in ways that reflect clients' problems and make it easier for them to access services. Research by the Legal Services

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Research Centre shows that people tend to experience problems in clusters and that the provision of quality early advice can prevent relatively simple issues from spiralling out of control. It is vital that advice is given that addresses the full complexities of a person's problem.

30. This is the reason for developing community legal advice centres and networks. Centres and networks will offer clients a full range of social welfare and family law services and will have the capacity to deal with a problem at the appropriate level. They will provide an end-to-end service, whether a client requires basic information to allow them to deal with a straightforward problem or whether they need legal representation at court. There is no doubt that this will mean opportunities and changes for law firms and not-for-profit advice agencies but, as the Committee has noted, access to justice is best measured in terms of the number of people helped and the pattern and nature of services delivered.
31. The development of the CLS strategy will encourage providers to do a wide range of work. The fixed fee arrangements will suit this concept. They are also designed to support strategic objectives in family justice. For example, the arrangements for child care fees will include additional payments for help where this is aimed at achieving a mediated solution to the case; practitioners who can apply their skills to achieve quicker resolution of cases - generally a desirable outcome - will not suffer any diminution in their fees on this account. This removes the financial disincentives for solicitors to make referrals to mediation, which has historically been an obstacle to increasing mediation referrals, a fact recognised by the mediation profession.

## Detailed Response to the Committee's Recommendations

### The purpose of reform: Legal aid and access to Justice (recommendations 1-2)

***Recommendation 1. We welcome the opportunity which the current procurement and remuneration reform proposals offer to address shortcomings and inefficiencies in the current system. Any money saved under the proposals might fund further acts of assistance and increase the number of citizens receiving legal advice. However, we must sound a note of caution. Access to justice and "value for money" for publicly funded legal work, which are major considerations behind the current reform proposals, are not only about the quantity of legally aided acts, but equally about the quality, nature and adequate geographic spread of those acts of assistance. (Paragraph 11)***

***Recommendation 2. Legal aid is a public service under significant financial pressure. However, only a properly resourced supplier base will be able to continue to provide the quality legal advice and representation to which legally aided clients are entitled. The impact upon access to justice will be the litmus test for these reforms. Providing effective access to justice is a basic tenet of the rule of law and a core characteristic of the welfare state. The reform proposals must not be allowed to cause irreversible damage to the legal aid system. (Paragraph 14)***

32. The Government and the LSC welcome the Committee's support for the general aims of the legal aid reform programme. As the Committee notes in its report "there is a pressing need to limit the significant rise in expenditure on legal aid" (para 238). Indeed, the LSC is under a statutory obligation (by virtue of the Access to Justice Act 1999), to maximise value for money in the services provided under both the Community Legal Service and the Criminal Defence Service. The Spending Review settlement for the former DCA, announced in December 2006 in the pre-budget report, assumed that legal aid expenditure would be approximately £2 billion a year for each of the years 2008/09 – 2010/11.

33. However, controlling expenditure is not, in and of itself, the goal of the reform programme. The aim of improved efficiency and better control over spending is,

ultimately, to ensure that more people can be helped by legal aid within the resources available, without any reduction in quality, and in a way that contributes to, and benefits from, improved efficiency in the wider justice systems. We agree that the ultimate test of the reforms is their impact on access to justice. Finding a better deal for clients, as well as taxpayers and practitioners, is the aim of the proposals.

34. The impact of the reforms on the quality and spread of legally aided acts of assistance, as well as on the provider base, is dealt with in detail in the sections below, as they correspond to the Committee's detailed recommendations.

#### **The strategic background to reform (recommendations 3-5)**

***Recommendation 3. While there is no room for complacency about the cost of legal aid even where expenditure in certain categories has peaked or is declining, reforms should first tackle those areas of legal aid where expenditure is continuing to rise unsustainably, especially where these reforms are radical in their nature, untested and associated with an unpredictable risk to the stability of the legal aid market. A risk-oriented, staged approach to procurement reform is required, where the expected benefits to the legal aid system are carefully balanced against the risks in each separate area of provision. (Paragraph 30)***

***Recommendation 4. The major cost drivers in the criminal legal budget and in the budget for child care proceedings are not fully understood. We believe that radical reforms of the criminal and civil legal aid system, intended to put legal aid on a more sustainable footing, can only be planned on the basis of a fuller understanding of the actual reasons for the increase in expenditure in the areas of concern. Necessary qualitative and quantitative research into the cost drivers in criminal legal aid and child care proceedings needs to be carried out as a matter of urgency. (Paragraph 38)***

35. As the Committee notes, the major areas of increased expenditure in recent years have tended to be in the Crown Court and child care proceedings (public family law). We are already addressing these areas, and have had some success in controlling costs. However, the continuing rise in expenditure

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means that further changes are needed in order to keep spending under control.

36. The Government and the LSC understand that procurement reform is not the only way to tackle cost drivers in the CJS. It is generally recognised that delays, adjournments and the number of pre-trial hearings contribute to increased costs across the CJS. We are working, with all our partners in the CJS, to ensure that the whole system is tackling the causes of delay. We want to ensure that trials are prompt and speedy, to tackle the causes of adjournments and to reduce the number of unnecessary pre-trial hearings.
37. We are working, in partnership with the judiciary, on measures to enable the lengthy pre-trial phase of VHCCs to be run as efficiently as possible. These include exploring potential improvements in the quality of defence case statements, thereby ensuring more effective disclosure. We will also encourage robust timetabling with all parties being made aware of their respective responsibilities in preparing cases for trial effectively and expeditiously. We recently announced new measures to manage difficulties in VHCCs where conflicts of interest or insufficient capacity on the part of defence representatives can impede the efficient progress of the trial.
38. In the Crown Court, initiatives are already being tested, as part of the CJSSS programme, in order to reduce delays. One strand focuses on the number of unnecessary 'mention' hearings, and we are working closely with the judiciary to identify good practices in courts around the country that will reduce the number of hearings needed for each case, and improve timeliness. For example, four courts have tested a scheme where a judge decides, on receipt of written representations from the parties, whether the matter can be dealt with administratively or whether a 'mention' hearing is required. The President of the Queens Bench Division wrote to all Resident Judges on 4 June 2007 commending this scheme and suggesting that each court should implement it. Guidance to court staff on how to do so has also been issued by Her Majesty's Courts Service. Further work is being done under CJSSS and by the Criminal Procedure Rules Committee that will also assist in improving timeliness and efficiency in the Crown Court.
39. Fee schemes in the Crown Court need to support our objectives above. The LSC has introduced individual case contracts for Very High Cost Cases. The Advocates' Graduated Fees scheme introduced in 1997 has in recent years been extended to cover all cases lasting up to 40 days (in two stages - 2002 and 2004) and to cover crack trials and guilty pleas (from 2005). We will be

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consulting further on a litigators' graduated fee scheme for the Crown Court, which, subject to consultation, we intend to introduce later this year. In the longer term, we intend to introduce a single fee for both litigators and advocates in 2008.

40. Work on cost drivers in the civil and family area includes the Child Care Proceedings Review of May 2006, which contained a great deal of detailed evidence about child care cost drivers and the way in which they are inter-linked. As well as the volume of cases, these include unnecessary delay, complexity, and the fear of permanent removal of children making proceedings more adversarial. The LSC's analysis of costs claimed by child-care firms show that factors such as local authority area, client profile (including ethnic grouping, age or gender) or type of case, do not on the face of it explain the large differences in costs between firms. Under any system of hourly rates, where the more time spent on a case the more is paid, there will continue to be differences based on the way individuals and providers choose to work. Work is in hand to fill the data gaps identified by the Review, but this is not expected to change our view of the fundamental factors driving cost.
41. To implement the recommendations of the Child Care Proceedings Review, the DfES and the Welsh Assembly Government are consulting on improved guidance to local authorities in drawing up applications, whilst the judiciary is introducing the new Public Law Outline, covering the conduct of these cases in court. We are also ensuring that the legal aid budget bears only those costs which are genuinely attributable to legal advice and assistance. Thus a change to the Funding Code has been placed before Parliament which will have the effect of preventing the costs of residential assessments falling on legal aid. Until about 2 years ago they did not do so but a court decision of 2005 drew attention to the fact that it was possible to make this charge with the Code as then constructed; a more recent decision has confirmed that this is not appropriate and the change reflects this.
42. Both the new fee scheme for child care proceedings and that for family private help contain features designed to encourage the use of mediation and other procedures which can achieve quicker resolution of cases and less protracted court proceedings. Indeed the fee schemes as a whole will give incentive to experienced practitioners to apply their expertise to the quick resolution of cases. This will clearly be of benefit to clients, who will generally prefer the quickest resolution possible subject to the maintenance of high quality.

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43. Given that the aim of the reform programme is to make legal aid operate as efficiently as possible so that the maximum number of people can be helped within a fixed budget – to make the system sustainable in the long term - we do not accept that reform should be limited to Crown Court cases and public law family. There is a need to gain effective control over expenditure in all areas. For example, *A Fairer Deal* pointed out that the slight decline in expenditure on family private cases arose through a much steeper decline in the volume of such cases – and an unaccountable increase in average costs per case. Such increases in average unit cost prevent the better funding of other priority areas.
44. We are conscious of the risks in the procurement programme, as in any programme of radical change. We are equally aware that the way to obtain the widest coverage of legal aid within any particular level of resources available is to contain costs subject to maintaining and improving quality. We have listened to what providers told us during consultation, and noted the work by Otterburn consulting, both of which led us to moderate the speed of introduction of most of the fee schemes (see para 59 below), as well as bring forward the proposed introduction of best value tendering.
45. The justice system – criminal and civil – is complex. Potential cost drivers are clear, quantifying their relative impact is difficult, as the work published by Professors Cape and Moorhead showed. Detailed research on cost drivers – would take a great deal of time, with no guarantee of clear results, accompanied by the danger that it would become dated quickly. Moreover the drivers vary from provider to provider depending upon the interaction between their own work practices and the wider justice system. The move to fixed fees, then best value tendering, will ensure that providers able to deliver the quality and access required will be the most sustainable.
46. The Government and LSC have decided that the right course is to follow Lord Carter's plan to tackle known cost drivers as a matter of urgency and to participate fully in initiatives like CJSSS. We have also set out our intention to move at an early stage to best value tendering which will enable providers to reflect the true price of doing business, including the impact of cost drivers.
47. The Ministry of Justice and the LSC are working closely with their partners in the justice system to identify and quantify future demands on the legal aid system at an early stage. We will build on the legal aid and justice impact test and the work of the legal aid stakeholder group, and use the opportunities for greater joined up working that the new Ministry offers, to this end.

***Recommendation 5. Where the legal aid supplier base is generally economically fragile and in continuing, significant decline, reforms to legal aid remuneration and procurement must not lead to a further acceleration of this decline and reduction of the profitability of legal aid work. (Paragraph 51)***

48. A strong legal aid provider base is clearly important if the aim of a sustainable legal aid system helping increasing numbers of people is to be achieved. We believe that the development of a market will be much the best solution for ensuring we pay the right price and get the right signals about unnecessary costs imposed by the other parts of the CJS, but of course MOJ and LSC will endeavour to increase their understanding of the system.
49. However, it is important to be clear that a reduction in the number of contracted providers does not necessarily impact on client access. Crucially, the provider numbers do not reflect the number of actual practitioners working in legal aid, nor their geographical distribution. Numbers of providers have been in decline for some time in most areas of legal aid. For example, the move towards, and subsequent implementation of, the General Criminal Contract in 2001 – designed to ensure minimum quality standards for legal aid work - led to a drop in the number of solicitor offices claiming for criminal legal aid work from around 8500 in 1999/2000 to under 3000 by the time the contract was introduced. This figure has now dropped to 2510 (May 2007), whilst 100% coverage of duty solicitor schemes has been maintained. In the light of this, we are less concerned about the conclusions of the Otterburn Consulting research than would otherwise be the case. We are also aware that, as that research report acknowledged, the data used made robust conclusions difficult to draw.
50. As the table below para 39 of the Committee's report acknowledges, the number of providers has also been falling in most areas of civil and family legal aid, whilst the numbers of acts of assistance has increased. For example, the 32% reduction in the number of family providers between 2000/01 and 2005/06 did not prevent a rise in cash expenditure of 28% over the same period. In housing, the numbers receiving help have increased from 80,000 in 2000/01 to 140,000 in 2005/06 and over 170,000 in 2006/07. Increased face to face advice, telephone advice and the new court duty scheme are all playing a part.

In the response made in 2004<sup>5</sup> to the Committee's report on the adequacy of provision in civil legal aid, the LSC stated that it had secured the base of higher quality providers and improved their geographical spread. Work since then has continued this, as the above examples show.

51. The LSC has not experienced any significant supply issues in criminal legal aid. There is certainly no evidence of a mass exodus of firms. On the civil side, there are problems in covering every area of social welfare law in certain geographical areas, as the Committee have reported on before, this is being addressed by the LSC's Community Legal Service Strategy and the steps it is taking to improve access. The LSC will shortly publish a paper which responds to interest in this area from the Committee and others. The Lord Chancellor has made clear his commitment to ensuring consistent access to civil legal aid across England and Wales. In successfully increasing the numbers of acts of advice through civil legal aid, the LSC has shown that legal aid providers are willing to take on additional contracts to deliver more services to clients.
52. Therefore the Government and the LSC do not accept that the provider base is generally in decline. As in any sector, some firms will perform better than others, some will leave the market, and others will join. The key is whether there is sufficient supply to meet client need, given the budgetary restraints under which legal aid must necessarily operate. On this basis, our view is that the provider base will be able to work with the new fee schemes, and, in the long-run, the best guarantee of a sustainable supply base is a market based system.

**Preparing for best value competition: the extension of fixed and graduated fees (recommendations 16 & 21-23, 15 & 18-19, 20, 6-7, 9, 17)**

***Recommendation 16. We agree that remuneration solely on the basis of time spent on a case is a disincentive to dealing with cases efficiently. Continuing the journey away from remuneration of publicly funded legal services on the basis of hourly rates towards remuneration on a per case basis, whether the***

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<sup>5</sup> *The Government's Response to the Constitutional Affairs Select Committee's report on Civil Legal Aid – adequacy of provision* (November 2004) Cm 6367

*price is set administratively or through competitive tendering, is therefore the right course of action. (Paragraph 123)*

*Recommendation 21. The short term introduction of transitional fixed and graduated fee schemes at breakneck speed will not allow providers to make best use of what should be a transitional period in which firms can carry out carefully planned business restructuring, where potential for efficiency gains in restructuring exists at all. Quality legal aid suppliers might be forced out of the legal aid market on grounds of the income reduction expected in the transitional period before they even have a chance to compete on the basis not just of price but also on quality in the best value tendering process. (Paragraph 133)*

*Recommendation 22. We strongly recommend that the Government reconsider the timing and comprehensiveness of the reforms. The problem areas of the legal aid budget (Crown Court defence work and child care proceedings) should be addressed swiftly, but we fail to see the need for potentially short-sighted transitional arrangements for legal aid remuneration in anticipation of the roll out of competitive tendering from October 2008, where there are already mechanisms for controlling unit costs or where the costs of cases appears to be under control. We can see merit in time in moving beyond tailored fixed fees for instance. But the desire to impose inflexible national fixed fees against a shaky evidence base is unwise in the extreme. It is more so given the proposed move to competitive tendering. The LSC's time would be far more wisely devoted to designing an appropriate system of competitive tendering, than it is to designing and implementing a suite of reforms which are fraught with difficulties and which are, in any event, only likely to be in place for a short period of time. (Paragraph 134).*

*Recommendation 23. Given the current fragility of the legal aid supplier base and the time suppliers will need to restructure their businesses where necessary, the introduction of ill-thought out new fee schemes, which are predicted to result in significant reductions in income for a considerable number of suppliers for little more than one to three years' time prior to competitive tendering, poses a great risk for suppliers and clients alike. The introduction of these fee schemes for the short transitional period should therefore be halted. (Paragraph 135).*

## Implementing Legal Aid Reform

53. Fixed and graduated fees have applied in certain legal aid areas for some time. These include magistrates' court work (since 1993), Crown Court advocacy (since 1997 under graduated fees – a standard fee scheme predated this), and Crown Court solicitors (since 1988), as well as the Tailored Fixed Fee for civil legal help (since 2004). In these areas, they have both served to drive up efficiency and to ensure an equitable distribution of risk between providers and the taxpayer. They are also proven across a wide range of other parts of the legal services market, including work such as commercial and conveyancing work, and, indeed, increasingly in areas of family work conducted outside legal aid.
54. As the Committee notes at para 123 of its report, 'remuneration solely on the basis of time spent on a case is a disincentive to dealing with cases efficiently...continuing the journey...towards remuneration on a per case basis...is...the right course of action'. The Government agrees. Payment on a per case basis is the correct principle for legal aid procurement, because such a payment method drives and rewards efficiency. Following this principle, and as set out at paras 35 - 43 above, we do not accept that reform should be limited to Crown Court cases and public law family if we are to help as many people as possible within available resources (although work to develop a litigators' graduated fee for Crown Court cases is progressing quickly, and the new arrangements for public law family work will come into effect from October of this year). Our intention is to secure good value across all schemes, not just those where costs have risen recently.
55. Fixed and graduated fees have two additional purposes. Firstly, as Lord Carter recognised, to proceed directly from the present arrangements to competition would constitute too great a leap for the vast majority of providers. Fixed fees are a necessary precursor to best value competition, as they encourage providers to closely consider their costs in relation to particular volumes of work. In particular, the new fees will act as a baseline for providers, so that they are able to bid competitively using the knowledge and discipline gained under a fixed or graduated fee regime.
56. Secondly, fixed fees provide the Government and the LSC with controls over spending which need to be attained as soon as practicable, to protect services to clients and retain a sustainable system. The Committee recognises this at least in regard to the criminal and civil areas where costs have been growing most quickly, but the arguments for their benefits apply equally in other areas. The view of the Government and the LSC is that not taking forward the reform

programme as a whole would place unacceptable risks onto the civil budget, and consequently on access to justice for clients.

57. The extension of these fees should come as no surprise to providers, or to the Committee. The November 2004 response referred (para 32) to the consultation paper issued in July 2004 by the LSC, concerning the introduction of the Tailored Fixed Fee Scheme. As noted, this paper stated that:

*“The scheme is part of a wider strategy...designed to secure the future of the Controlled Work scheme at a time when we are under financial pressure. It represents an evolutionary step away from the current system of payment based largely on inputs (time spent) towards the approach we are likely to adopt in the future of paying for outputs (defined pieces of work) at prices fixed by standard or graduated fees, and ultimately by managed competition)”*

58. Indeed this thinking underlay a paper published by the previous administration as long ago as July 1996. It was taken into account in the Fundamental Review of Legal Aid, which led to the publication of *A Fairer Deal* nearly two years ago. Lord Carter was then asked to report on the options for achieving the change, and he did so in July 2006 (having issued an interim report in February of that year).
59. As indicated above, the LSC has always explicitly positioned the Tailored Fixed Fee as an interim measure before national fixed fees are introduced, on the basis that paying different providers different amounts for identical outcomes was not sustainable in the long-term. The scheme for family private help takes account of experience with a pilot. Furthermore, the Government and the LSC, listening to what providers told us in response to *Legal aid: a sustainable future*, have agreed to introduce most of the new fixed and graduated schemes over a longer time scale (six months or more), to give providers more time to prepare. For example, the new mental health fee scheme will not be implemented until January 2008, nor will the litigators' graduated fee scheme be introduced until later this year. Level 3 of the family private help scheme and family advocacy will not be implemented until next year. In each case the timetable now to be adopted balances the need for progress with the need to avoid undue disturbance to the provider base.
60. The Government and the LSC have engaged with the professions for nearly two years over the reforms, as did Lord Carter whilst developing his report. The process by which the proposals have been worked up has been a careful,

iterative and well publicised one. The extension of the existing fixed and graduated fee schemes builds on fifteen years of experience of these types of fees, as well as consultation, and detailed work carried out internally and externally. We cannot agree with the Committee's suggestion that the new schemes have been rushed or introduced in an 'atmosphere of panic'. Work to implement the new schemes will therefore continue.

***Recommendation 15. As the regional financial impact figures for the Tailored Fixed Fee Replacement Scheme, the family fee schemes and the police station and magistrates' courts fee schemes indicate, their proposed implementation in October 2007 will have considerable negative financial consequences for a significant number of legal aid suppliers, especially in major urban areas. (Paragraph 122)***

***Recommendation 18. Where the LSC embarks upon the creation of a comprehensive system of fixed and graduated fee schemes intended to provide a sustainable basis for the future of the legal aid market, fair to both the suppliers and the tax payer, it can only do so meaningfully on the basis of adequate knowledge of the reasons for variations in case costs between firms, areas of the country and within each category of legal aid. This knowledge presupposes collection of the right data and of statistical research. It appears that the LSC has inadequate information on which to base its proposed fixed and graduated fee schemes. (Paragraph 127)***

***Recommendation 19. Equally, there is very little reliable statistical information about the economic situation of the legal aid supplier base on which valid predictions of the impact of changes to remuneration or procurement arrangements could be based. The Government does not have all the information required to assess the true impact on legal aid suppliers of the reform proposals, especially of the new fee schemes on the legal aid market. It cannot know if, and how, legal aid suppliers in different regions and categories of the law will be able to absorb the planned rate cuts, especially in London and other urban areas, if it does not have sufficient detailed information about the economic situation of legal aid suppliers by region and contract category. Furthermore, the evidence it does have points to significant problems in forcing radical change on the profession (Paragraph 128)***

## Implementing Legal Aid Reform

61. We agree with the Committee that the schemes need to be based on adequate data. As outlined in para 53 above, fixed and graduated fees have operated in many areas of legal aid for some time now, and the LSC has drawn on that experience in the design of the new schemes, working in conjunction with professions to validate the data.
62. The starting point for the civil and family fee schemes is that they are cost neutral on 2005/06 payments: that is, the budget available to the schemes remains the same, but rather than paying by hourly rates, the LSC will use the same amount of money to pay providers a fee reflecting the *average* they previously paid for that type of case. An important part of the Government's overall strategy, as set out in *A Fairer Deal*, is to rebalance expenditure from criminal in favour of civil legal aid. Therefore, fixed and graduated fees for criminal defence work, whilst calculated in the same way as the civil fees, also include some savings on historical spend. The LSC has worked with providers to make sure that the detail of the new fees is as fair as possible. The LSC has based the fees on all the available data, which has been shared with provider groups, and conducted a file review exercise to consolidate the data on which the fee schemes are based. On the criminal legal aid schemes we have listened to what providers told us during consultation, and have moderated the speed of introduction of most of the fee schemes and focussed them on particular geographical areas where sustainability of supply for clients is not threatened.
63. The Legal Services Commission has aimed to set fees that will be sustainable for providers. On the civil side these broadly match average costs of the work that providers currently carry out (on 2005/06 costs), while some reductions are being made on the criminal side. Some cases will cost less than the fixed fee and some more, but overall, payment should be a reasonable reflection of work done. While there will be some gradation across different cases, it is the overall level of payment which is important. This is essential if providers are to prepare for competition.
64. In the longer term, best value tendering will establish the right price at which providers in a particular region or particular area of law can provide the access and quality required. If firm A is able to compete and provide the same service to the same quality as firm B at a lower price, then the right price for the tax payer and the legal aid system as a whole is that charged by firm A.

***Recommendation 20. We appreciate that, as Sir Michael Bichard, the Chairman of the LSC, pointed out to us, it is extremely difficult to draw conclusions about how the firms are going to respond to a very different set of circumstances. In the light of this uncertainty and the general lack of data, the DCA/LSC's intention of a nationwide imposition of fixed fees followed rapidly by competitive tendering across the entire legal aid system is a breathtaking risk. It puts a great deal of faith in economic argument in the teeth of LSC-commissioned evidence which casts doubt on the capacity of supplier to respond. This risk might be justified where the whole system is in utter crisis but large parts of the system (especially non-family civil legal aid) are stable in cost terms. We recommend a reconsideration of the plans and the adoption of a much more measured, risk-based strategy for reform. (Paragraph 129)***

65. As set out in paras 55 and 56 above, fixed and graduated fees have the dual purpose of controlling costs and acting as a necessary step towards best value competition. We also consider that the principle – of payment on a per case, rather than an hourly, basis – is right, as noted by the Committee itself. Such a system will drive efficiency, and allow us to help more people within the budget. As outlined at paras 48 to 52 above, we are confident that the supplier base will be able to adapt to, and find opportunity in, the new schemes. These are in the main the very same law firms who have responded positively to the introduction of fixed and graduated fees in other areas of legal aid over the last fifteen years.

66. We agree with the Committee that implementation of reform must be measured and risk-based. This involves considering wider risks, as well as those that apply to particular legal aid schemes. As already noted in para 19 above, we consider that not implementing the reform programme – including the extension of fixed and graduated fees - carries substantial risk. We do not agree with the Committee's assessment of the extent of risk involved in taking forward the schemes. That said, we have already agree to moderate the speed of introduction of most of the fee schemes in response to what providers have told us, and we have announced today further moderation for the mental health fee scheme and the Family level 3 fee, as well as the Crown Court litigators' graduated fee scheme.

***Recommendation 6. We have no objection in principle to a system of graduated fees provided that system adequately captures the amount of work a legal aid supplier has to undertake to provide high quality advice and representation. For most kinds of legal aid work, such a system will require appropriate graduation. (Paragraph 70)***

***Recommendation 7. Fee schemes which only provide for relatively flat fixed fees with very little graduation provide economic disincentives to taking on more complex cases. This is likely to disadvantage already vulnerable clients. Only appropriately graduated fee schemes which allow adequate remuneration for more complex cases and those where attendance by, or communication with, a client is unusually difficult would encourage providers to devote the time needed to deal with such cases. This might go some way to help prevent cherry picking of cases to the detriment of vulnerable clients. (Paragraph 76).***

67. We agree that any fee system must provide a balance between simplicity and the flexibility to cover complex cases. We believe that the new fee schemes achieve this balance.
68. All of the proposed fixed fee schemes contain escapes for 'exceptional' cases, which will continue to be paid at hourly rates. These are cases that would cost, for most schemes, three times the fixed fee were they to be paid at the old hourly rates.
69. In civil legal aid the schemes are best viewed as block contracts – a block payment for a block of cases that will include some shorter, easier ones and some more complex ones.
70. Under an hourly rate system there is a perverse incentive to take on only cases that will lead to large costs claims and to turn away clients whose problems (however important to them) may be more easily resolved, perhaps because they are at an early stage.
71. On the other hand, under an unregulated fixed fee regime there would be a perverse incentive to take on only simpler cases. The LSC's analysis of case-mix in Legal Help shows that in fact there have been no significant changes since the introduction of Tailored Fixed Fees. However, we recognise that this is a risk, which will need to be managed when the new schemes are introduced. It is also important to remember that it would be unlawful for a legal

aid provider to refuse to act for a client because they felt that their language skills, disability or ethnicity made them more expensive to act for.

72. The LSC will monitor case mix and average inputs (time spent) under the new Unified Contracts from October 2007. Providers that cherry pick simple cases will face contract sanctions, with, ultimately, their contract being terminated.

***Recommendation 9. Given the considerable geographical spread in the costs of running a legal aid firm, where fixed or graduated fees are set administratively, we recommend that they should, wherever possible, reflect these variations. Only then will comparable work in effect be remunerated on a true like for like basis. (Paragraph 85)***

73. We agree in principle that, as far as practicable, fees should reflect variations in cost. That is why we are moving to regional prices set by best value tendering for most areas. But there are some exceptions (Very High Cost Criminal cases for example), where national rates, set by competition, are appropriate. In the future, wherever possible, we propose that appropriate regional prices will be best set by competition to allow the best value – or ‘true’ – price to emerge. Nonetheless, the LSC has been sensitive to the need to make transitional fixed fee schemes reflect local circumstances, though how far that is possible will vary with the particular scheme and the particular sector. The decision taken in each case has been informed by consultation with providers.
74. Existing price differentials do not necessarily reflect the true price of providing services. For example, we would expect competition to reduce prices in some high costs areas where there are lots of providers, and that process might well include providers moving or expanding from lower cost areas.
75. The differences in costs charged under a system of hourly do not simply reflect different overheads for providers in different parts of the country. These differences per case are largely caused by the number of hours providers claim per case.
76. The TFF replacement fee for Legal Help, as published, will lead to a majority of providers gaining nationally. Whilst these fees could lead to lower revenues for a majority of London providers, if working practices continued unchanged, the productivity of providers is increasing rapidly particularly in London where acts of help by the not for profit sector increased by 45% in 2006/07 over 2005/06.

## Implementing Legal Aid Reform

The transitional arrangements for not-for-profits, as described in *The Way Ahead*, and which have been discussed with representative bodies, mean the fees will not have an immediate impact on that sector. The LSC will monitor future impact to ensure that adequate supply is maintained.

77. For Immigration and Mental Health, the LSC has also stayed with a national rate – these areas see considerable mobility of clients (immigration) and providers (mental health), and therefore regional fees would not work. However, the principle of sensitivity to the particularities of each scheme is maintained by special arrangements for detained client work (immigration) and additional payments for particularly remote hospitals (mental health).
78. In family, as in other schemes, LSC has retained a national fee for initial advice in (level 1 in private, levels 1 and 2 in public). However the fee for legal representation (level 3) will be based on four geographic regions, in order to prevent any serious effect on short-term access for clients. Family firms tend to be heavily reliant on their income from legal representation, and would therefore suffer disproportionately from a national fixed fee for this part of their work. In public law, this produced an acceptable distribution of costs across all regions, including London.
79. The difference in average costs between London and the rest of England and Wales, and the variation of costs within London itself, is however much greater in private family work than in public family law. Therefore in order to ensure that we maintain a reasonable balance of supply, after restructuring the fees based on the four supra regions, the LSC has also proposed an added uplift of 16% to the fees for London providers at levels 2 and 3 in private family cases. We see this as a transitional measure to maintain supply: we do not consider the current high price of London cases as necessarily justifiable and we would expect London prices to come down either through competition or because of our drive to ensure that cases settle at an early stage.
80. The police station fee scheme, published today, is based on a locally calculated fee. Magistrates' courts fee changes have been limited to 16 urban areas where business is more concentrated. We believe that providers in these areas will have the greatest opportunities to adapt their working practices to the new scheme, and that there are large enough volumes of work in these areas for providers to realise available economies of scale.

***Recommendation 17. However fairness in remuneration demands that the rate for dealing with a legal aid case, be it in the field of criminal law, civil or family law, should ideally be based on objective criteria that adequately capture the complexity of cases and allow a more accurate determination of the likely work which a provider has to invest in a case in order to deal with it appropriately. (Paragraph 124)***

81. We agree that cases should be remunerated fairly, and as explained in para 62 above, the LSC has worked with providers and all the available data to make sure this happens. The escape mechanisms for 'exceptional' cases will also act as an important safeguard for providers and clients.

82. As the Committee recommends, the criteria for measuring complexity need to be objective. The method used also needs to be appropriate to the scheme in question. For example, the Crown Court advocates' graduated fee scheme uses offence type, pages of prosecution evidence, the number of witnesses and the trial length to calculate fees. The Bar engaged extensively with Lord Carter and confirmed that these objective factors, currently used to calculate graduated fees, were appropriate. The proposed litigators' scheme will be based on similar principles. Costs in such cases can therefore vary very widely. It would not be appropriate to replicate such a scheme for cases that occupy much less, if any, time in court, and for which the range of cost variation is much smaller.

83. There will be a specific prohibition in the Unified Contract against ceasing to act for the client just because the fixed fee 'limit' has been reached. It is important to bear in mind that the fact that an individual case 'costs' more than the fixed fee in terms of the provider's input does not mean that the provider has been somehow underpaid on that case, or that it is reasonable to cease acting at that point. The provider is not required to refund the difference if the case costs less than the fee. The fixed fees for civil and family work are averages, based on the costs of the work that providers currently carry out. Some cases will therefore cost less than the fixed fee and some more, but overall, payment should be a reasonable reflection of work done.

**Travel and waiting under the new fees (recommendations 10-13)**

***Recommendation 10. Generally, we can see merit in limiting travel costs in geographical areas and for categories of legal aid work where there is ample local supply of legal advice, such as for criminal defence work in most areas of London. It should be incumbent on local legal aid providers to ensure that unnecessary travel costs are not incurred. Factoring in appropriate elements of travel costs in major conurbations to graduated fee schemes is a justifiable step to achieve control over unreasonable travel costs, but care will have to be taken that this does not lead to unsustainably low fee levels. (Paragraph 90)***

***Recommendation 11. Established police station practice, such as bail-backs, is likely to have contributed to the increase of police station travel costs over the last few years. Therefore, a proper graduation of the police station case fee that took account of the number of attendances, or a time-related banding as in the Magistrates' Courts Standard Fee Scheme, would provide an adequate sharing of economic risk of rises in defence practitioners' travel cost between the supplier and the Government. (Paragraph 91)***

***Recommendation 12. The inclusion of travel costs in the civil and family fees may affect vulnerable clients disproportionately by providing an economic disincentive to providers to take on their cases for fear of incurring travel costs beyond the element provided for in the fixed or graduated fee. This would be exacerbated in rural areas and small towns where provision by civil and family legal aid providers will be more uneven. We therefore disagree with the Government's plans to include them in the fixed fees. (Paragraph 93)***

***Recommendation 13. Both Lord Carter and the Lord Chancellor, Lord Falconer of Thoroton, recognised that there was a variety of reasons for waiting costs of legal aid suppliers and that much of those causes were outside the effective control of legal aid suppliers. While legal aid suppliers should generally be encouraged to make best use of waiting time, there are compelling considerations against the inclusion by the DCA/LSC of waiting costs in the fixed and graduated fee schemes. There is agreement that this cost factor is largely not in the control of the legal aid provider; it would therefore be manifestly unjust to make the provider bear the economic risk of increases in waiting time beyond what is included in the case fee as remuneration for average waiting time. Rather, there should be an economic incentive for the Government to improve police station procedure, court***

***listing practice and case preparation by the CPS or local authorities in order to reduce waiting costs to the legal aid budget. (Paragraph 94)***

84. All of the new interim fixed and graduated fee schemes include an element of travel and waiting, though it is no longer paid as a separate fee. We agree with the Committee that waiting time is less within the control of providers than travel time. However, it is important that there are no perverse incentives in the payment schemes for providers to increase travel and waiting time unnecessarily. In the long-run, the proposed introduction of best value tendering will encourage providers to minimise wasted time, but also allow them to price it in where it is unavoidable, for instance police station practices that cannot be changed. This applies to both travel and waiting time across all the fee schemes.
85. We have already indicated above that the Government and the LSC are tackling wider criminal justice system inefficiencies to reduce inefficiencies in the legal aid system, as well as for the wider benefit this brings. As the Committee notes at paragraph 37 of its report, the *Criminal Justice: Simple, Speedy, Summary* (CJSSS) pilots have produced promising results: a 70% reduction in first hearing adjournments in the magistrates' courts, and a significant increase in early guilty pleas. The proportion of the new standard fees assigned to travel and waiting is based on historic costs, so the improvements CJSSS should improve the profitability of the new fees. Further, the inclusion of travel and waiting time payments within fixed fees gives firms a tangible stake in the efficient running of the CJS, and has already spurred some firms to seek improvements in court practices, as well as to address their own working practices.
86. Serving some mental health clients requires journeys to remote locations, and there is provision for an additional allowance to such locations to be paid. We are thus recognising unavoidable burdens whilst avoiding creating incentives to providers to increase overall costs by taking on work at distant locations which could be done equally effectively by someone nearer at hand.
87. Disbursements - for example interpreter's fees and expert's reports - are often key factors in higher costs, and these are excluded from the fixed fees.
88. The LSC investigated in detail the option of introducing a graduated fee for police station work based on offence type. The analysis showed no overall relationship between case cost and offence type. Of the three offence types with the highest average cost, while robbery and sexual offence cases were

more likely to 'escape' than other cases they were not significantly more likely to be expensive. Homicide cases were likely to be more expensive, due to a large number of cases triggering the 'escape' provisions of the fixed fee. When cases did not escape, a significant proportion cost less than the fixed fee. The results of the investigation indicate fixed fees are a more robust way of providing remuneration for police station work when compared to a fee based on offence type.

89. Clients needing civil or family legal aid normally visit the provider. Therefore, although travel and waiting can be claimed under existing arrangements, amounts involved are small. The arrangements for Community Legal Advice Centres and Networks will involve the provision of services to clients at 'outreach' locations, for example, doctors' surgeries, and funding will be available for these. We will therefore continue to include travel in the fixed or graduated fee for the majority of the fee schemes (as already noted, mental health is an exception).

### **Specialist suppliers and not-for-profits (recommendations 8 and 14)**

***Recommendation 8. It is of crucial importance that any fixed or graduated fee system allows specialist and niche suppliers to obtain a reasonable return for their work in order to guarantee the provision of high quality advice for complex cases and thus to ensure access to justice for those requiring specialist advice and representation. There is a major risk that specialist providers will be lost to the Legal Aid system. (Paragraph 82)***

90. We recognise the need to retain the right level of expertise within the legal aid system. The new fixed and graduated fee schemes (for civil, family and immigration legal aid) are predicated on providers carrying out a range of cases that address the full spectrum of clients' needs. Complex cases that 'escape' from the fixed and graduated fee provisions will still be paid at hourly rates. If a case involves more than one area of legal aid, separate fees will be payable for each of these. Providers may choose to use particular practitioners as specialists to deal with more complex cases, however, the organisation as a whole will need to provide a full range of services in order to profit effectively from the new fees.

91. The LSC has previously sought to encourage expertise in particular areas, for example the 15% uplift for Law Society Children's Panel membership, first introduced in 1991. The LSC notes that this has not succeeded in its purpose of increasing the number of child care cases dealt with by panel members. Nonetheless, this uplift will still apply to the more complex cases which escape.
92. The LSC will also be providing incentives to young solicitors to enter child care work through the use of targeted training grants, to help ensure that expertise is built up amongst new entrants to the profession.
93. A number of firms claim they have niche businesses in, for example, complex human rights issues or animal protection. While there is a need to maintain high levels of expertise, there is also a need to provide local and wide ranging services. As we roll out the reform programme we will evaluate the need for special arrangements for niche practices. A decision to introduce a minimum contract size will impact particularly on firms with a specialist Crown Court business but little or no presence at the police station. We will consider such factors when deciding on the issue of minimum contract size, and we will announce whether any special arrangements should be made for niche providers alongside our decision on a minimum contract size.

***Recommendation 14. Not-for-Profit suppliers of legal advice play a crucial and invaluable role in the provision of social welfare advice and assistance to some of the most disadvantaged clients. Yet, where advice centres and comparable other NfP institutions undertake similar work for similar clients to that of legal aid solicitors, the current difference in the level of remuneration is not sustainable in principle. However, care will have to be taken that the transitional arrangements put in place for the adaptation of NfP providers to new remuneration arrangements will allow these organisations to adjust appropriately to the new funding schemes, as the impact of the transition to fixed or graduated fee schemes is likely to be a significantly more difficult process for a large number of NfP providers than for solicitors with an experience of working under the current Tailored Fixed Fee Scheme. (Paragraph 101)***

94. We agree. Transitional provisions are being made for Not-for-Profit providers, so that they can continue with their very substantial productivity gains which have already occurred, and which underpin much of the increased help given over the last two years.

**Best value competition – the background (recommendations 24, 25)**

***Recommendation 24. There is no "one size fits all" solution to legal aid procurement. The LSC will have to ensure that where it intends to procure publicly funded legal services by means of competitive tendering, suitable market conditions exist in order to make the market-based approach to legal aid succeed. Only where there is a sufficiently large number of suppliers can competitive tendering work and conflicts of interest in criminal defence or family cases be avoided. In some areas of the country this will be difficult. Competitive tendering is therefore unlikely to be a model which is uniformly suitable throughout England and Wales. (Paragraph 141)***

95. We agree that there may need to be different ways of creating a viable market in different parts of the country: different areas have different conditions and care will need to be taken to ensure effective competitions over time. In urban areas where the balance between the number of firms and legal aid clients is strongest we might reasonably expect downward pressure on prices. In rural areas where supply is often weaker and clients are certainly more dispersed, a move to the market will reveal the lowest price at which a sustainable service can be secured. In any area competition will reward firms that are innovative and organised efficiently. A more dynamic market, driven at least in part through the transparency that fixed fees offer, will ensure that price is more responsive to local conditions. At the same time, market forces will often be best placed to deliver the most efficient outcome, and this can be true even in areas of relatively low supply. In any event, the LSC aims to consult on best value tendering later this year.

***Recommendation 25. It is absolutely fundamental to Lord Carter's proposals for best value tendering that the market sets the price. It is crucial to the correct pricing of legal aid work and the sustainability of the system. The Lord Chancellor and the LSC indicated a strong belief that competitive tendering would not lead to an increase in fee levels. Where that is not the case there will be one or both of two responses:***

- ***The market price will be treated as a cartel price and dealt with accordingly; and***
- ***The market price will be accepted but cuts made elsewhere in legal services to offset the increase in the budget.***

***The first response betrays a lack of confidence in the LSC's ability to set up a system of tendering that is genuinely competitive. The second shows that a market-system that delivers any increases in price might not be sustainable. Either way, neither the LSC nor the DCA appear to have confidence in the central premise upon which the reforms are based. (Paragraph 144)***

96. Our planning assumption is that prices will not increase overall under best value tendering, as we are confident that a properly functioning market with effective competition will lead to overall cost reductions. That said, prices may well rise in some areas, although we expect this to be offset by falls in others. If prices were to rise overall we would have to accept the consequences of a fixed budget and examine ways of remaining within our means, by deciding which services are a priority to purchase.
97. In terms of preventing cartelisation, a commitment to a market mechanism does not preclude a commitment to maximise clients' welfare and to regulate the market in cases where there is a clear breach of competition policy. We believe clients are best served by realigning solicitor's incentives with our procurement objectives and by making sure that there is a sustainable and strong supply base.

**Design of the Best Value Tendering Process (recommendations 26, 27, 28, 29-30, 31-32, 33- 36, 37)**

***Recommendation 26. Designing an effective and workable model for competitive tendering of legal aid contracts will be the LSC's prime task. It is a formidable one. Ensuring market stability, an adequate opportunity of market entry for new or external providers and a necessary degree of competition between legal aid providers beyond the first round of competitive tendering will be crucial in the design of the tendering process. (Paragraph 154)***

98. We agree with this conclusion and a great deal of work is being undertaken to design models which are effective and workable. Market entry and market conditions beyond the first round of bidding are key considerations. We will consult on best value tendering later this year.

***Recommendation 27. Quality of publicly funded legal services is crucial for the effective provision of access to justice and the guarantee of fair trials. It has to be the primary criterion in any bidding process deserving the name "Best Value Tendering". In particular, a premium has to be attached to the bids of those providers which have achieved top rating at peer review. We are therefore disappointed with the LSC's proposals for the tendering process for entry to the panel of legal aid suppliers for Very High Cost Crime Cases. Despite the Government's assurances to the contrary, we believe that this model does not bode well for the general introduction of competitive tendering across all areas of legal aid. Quality must be assured when the procurement of publicly funded legal services moves to competitive tendering. (Paragraph 160)***

99. We believe that the proposed scheme for Very High Cost Cases ensures that potential panel members meet a clearly defined quality standard. We have set the bar at PR3 for the first panel as Lord Carter suggested. He also recommended using PR2 for the second panel, preferably based on a bespoke peer review scheme for VHCC work which we plan to develop. The present peer review scheme does not look specifically at VHCC work. It would therefore be difficult to justify linking reward to this. It would have been unreasonable to set a higher bar, eg PR2, straight away when firms have not been peer reviewed before and thus have no experience of knowing what a PR2 standard looks like.
100. Having assessed applications against an acceptable level of quality (and experience) in the essential criteria; the LSC will review successful applications against the desirable criteria. Experience and an applicant's willingness to increase their VHCC work is important to enable us to meet our demand and generate competition.

**Recommendation 28. While the Government maintains that competitive tendering for legal aid contracts will lead to a fairer sharing of financial risk between providers and the LSC, we are concerned that it will be the legal aid providers who will carry the lion's share of the financial risk of inefficiencies in the justice system or significant legislative or policy changes leading to an increase in the workload per case. Even competitive tendering may not lead in all cases to an adequate allocation of financial risks through the pressure on legal aid providers to outbid one another. We are particularly anxious that**

**an eventual tendering model for block contracts should provide for means to deal with exceptional cases sensitively and adequately. (Paragraph 166)**

101. We agree that the tendering processes for best value competition will need careful design to mitigate the risks that the Committee identifies. Different schemes are likely to require different tendering processes to reflect the type of work, and these will be subject to detailed consultation later this year. The threat of unrealistically low bids, which in turn would destabilise the market, explain the LSC's model for the first round of VHCC tendering. This also highlights the importance of fixed fees – it is only after the discipline that these will impose that providers will gain a realistic understanding of their costs over a substantial period of time, and therefore how a realistic bid would be structured.

***Recommendation 29. In the absence of any substantial research into the impact of competitive tendering for legal aid contracts on the legal aid market and the availability and quality of publicly funded legal services, and bearing in mind the current fragility of the legal aid supplier base, it is imperative that the risks inherent in such a radical reform be minimised and the effects analysed on a limited geographical basis. Not to do so would be reckless. (Paragraph 174)***

***Recommendation 30. Since criminal defence work currently remains the major driver in overall legal aid expenditure, piloting competitive tendering in the area of criminal legal aid would be justified. Few reforms are without risks. Selecting a limited geographical area with adequate supply (such as London) for a pilot scheme and careful monitoring would help to mitigate the risk of irretrievably damaging the local legal aid market. Great care in the design and monitoring of the piloting process would have to be taken in order to limit unintended spill-over effects of criminal legal aid tendering on mixed providers offering civil or family legal aid services. However, such a pilot will not test the viability of the model in areas of limited supply that will enable assessment of other features of the scheme. Even if the London pilot worked well, further thought would have to be given to areas of limited supply. (Paragraph 175).***

102. We propose to roll out best value tendering initially for the criminal schemes on a phased basis (with the exception of VHCCs). This will allow lessons learnt to be applied to the design of subsequent tendering processes. The LSC accepts

the need – as recognised by Lord Carter – for a dynamic information monitoring process, in order to assess the state of the market.

***Recommendation 31. The most profitable and efficient legal aid providers are not necessarily always the ones providing clients with advice and representation at the highest quality. We note with interest the fact that the LSC initially tried to present evidence of a link between efficiency and quality of legal aid providers on their peer review programme, a position they did not persist with. The LSC has a substantial peer review programme and the absence of a robust link between quality and efficiency is telling. Similarly, we would have expected the LSC to produce evidence of a link between the size of a firm and the quality of its work to support its reform proposals if such evidence were available. It has not. (Paragraph 183)***

***Recommendation 32. Restructuring and growing in size might be a solution for criminal legal aid firms in London and other major cities to improve their efficiency and provide services in a more localised way, thus reducing the time spent travelling to advice and represent clients in police stations and magistrates' courts. However, the move to fewer, larger suppliers is a solution confined to geographical areas and categories of the law where there is clear over-supply. The welcome desire to reduce the LSC's administration and transaction costs through a reduction in the number of firms it has to deal with must be balanced against the risk to the availability and quality of publicly funded legal advice and representation associated with a reduction in the number of legal aid suppliers. (Paragraph 187)***

103. No decision has yet been taken on the existence or level of any minimum contract size for access to police station work. We will set out our decision on the introduction of a minimum contract size, after the conclusion of the consultation on the allocation of police station and magistrates' courts slot allocation.

***Recommendation 33. Peer review is, in principle, a promising quality control mechanism. Where a quality assurance mechanism is based on quality control through peer review, this review has to be carried out by experienced legal aid practitioners with their own experience of the work they are***

***reviewing. This peer review should cover all contract categories which a supplier provides. (Paragraph 196)***

***Recommendation 34. Where the pressure on legal aid providers to provide cut-price legal advice and reduce the quality of their publicly funded work will be greater than ever through the introduction of fixed fees and competitive tendering, peer review will be the best but a limited means of identifying below standard providers. It will not be able to measure the quality of advocacy by legal aid providers in the courts or certain aspects of the provision of defence services in the police station. (Paragraph 199)***

***Recommendation 35. Peer review as currently designed is a tool to measure quality. The possibility of sudden dips in quality in the three-year period between peer reviews is of concern to us. We doubt whether a simple "light-touch" measuring of a provider's "key performance indicators" against contract specifications will add much protection against a sudden loss of quality, particularly if the peer reviewers are influenced in their expectations by the cost pressures placed on providers . (Paragraph 203)***

***Recommendation 36. It is crucial that the standards for peer review levels should not be subject to slow erosion over time under the economic pressures faced by the legal aid supplier base and the peer reviewers as providers themselves. (Paragraph 204)***

104. We welcome the prominence given by the Committee to the maintenance of high quality standards. The peer review system has been carefully designed and is widely accepted as the best method of assuring the quality of legal aid services. We wholeheartedly accept that quality standards should not be allowed to fall over time, and the system includes provisions to tackle any erosions in standards. Indeed we expect that the national roll out of peer review will both enhance and guarantee the quality of legal aid advice that clients receive. We also expect to raise the peer review threshold marking after the first competitive bid round for access to the market. Furthermore, it is important to note that peer reviews within the three-year cycle can be conducted where appropriate. These steps will enhance confidence in the justice system and also secure value for money for the taxpayer.

105. It is also important to note the ongoing work being taken forward by the representational and regulatory arms of the professions, the LSC, the MoJ, the Judiciary, the Crown Prosecution Services, the Institute of Bar Clerks, the Institute of Advanced Legal Studies and other stakeholders to design an

equivalent system to maintain and assure the quality of publicly-funded advocacy and case management services. This work has fed into proposals that we are consulting on, for a quality assurance scheme for publicly funded criminal defence advocates practising at Crown Court level and above. We believe that peer review for solicitors and not-for-profit agencies together with an equivalent scheme for all publicly funded advocates, working alongside effective professional regulation will continue to ensure that legal aid services are of the highest quality.

***Recommendation 37. While the current fee scheme proposals encourage quick dealing with cases, they do not provide sufficient economic encouragement to aspire to a high quality standard in legal aid work. Peer review might provide a quality floor but might also lead to clustering around a median quality point. Economic incentives should be created, rather than abolished, to make high quality work pay better and thus make it more attractive. (Paragraph 210)***

106. We do not accept this argument. Only providers of high quality services will be able to undertake legal aid work.

#### **The impact of the reforms on BME firms and clients (recommendations 38-40)**

***Recommendation 38. BME suppliers provide an essential link between BME communities and the legal world. They can contribute significantly to community cohesion and access to justice for BME clients. The current reforms proposals may have a disproportionate impact on BME clients who form the client base of most BME-controlled legal aid providers. This may limit access to justice for members of ethnic minorities. (Paragraph 222)***

***Recommendation 39. It is imperative that reforms potentially affecting BME clients disproportionately should be robustly assessed on the basis of comprehensive and reliable statistical information. The LSC's data sets, especially for criminal legal aid, have been acknowledged to be incomplete, so a full impact assessment of the criminal legal aid reforms on BME clients cannot yet be undertaken. We appreciate the LSC's efforts in collecting the relevant client data and hope that they will contribute to a comprehensive***

***and robust impact assessment of the criminal legal aid proposals.  
(Paragraph 223)***

***Recommendation 40. We are concerned that some of the reform proposals may contravene the prohibition of indirect racial discrimination under the Race Relations Act 1976 as subsequently amended. Some of the reform proposals, notably the introduction of minimum contract sizes, leave us in doubt as to whether they are a necessary and proportionate means to achieve the intended objective, which is the legal test. (Paragraph 229)***

107. We are committed to ensuring that the legal services we procure reflect the communities that they serve as widely as possible. Each step of the reform programme has been accompanied by a regulatory impact assessment, which outlines in as much detail as possible the impact on both the racial and gender representation of the legal aid market in terms of firm ownership. The impact assessments also consider the impact on clients in relation to the LSC's spectrum of equality obligations. This will continue as the reform programme progresses and we expect to publish a consultation on Best Value Tendering later this summer, which will be accompanied by an impact assessment that provides an overarching assessment of the impact of all the reforms announced or implemented to that point.
108. The evidence in the regulatory impact assessments suggests that the impact of some of the civil, family and immigration fee schemes on BME managed providers is somewhat greater than that on white-managed firms. However this is in the context of the schemes tending to redistribute resources from some parts of London where both costs and supply availability may be high, towards other parts of the country, where they may be lower. There are many BME providers in London and so this redistribution affects them, but the preliminary analysis suggests that the impact on BME providers in London is no worse than that on white providers in London. Given, therefore, that the fee schemes have been designed to be consistent with maintaining and developing adequate supply in all areas, including London, we would not expect there to be an impact concentrated on BME providers.
109. *Legal Aid Reform: The Way Ahead* contained a section entitled *Securing a diverse sector*, which committed both the former DCA and the LSC to monitor and check ethnicity data on firms, whilst, amongst other measures, committing firms contractually to improving the data they collect on BME providers and clients. To that end the LSC has made compulsory the provision of data nationally on

the ethnicity of BME staff, as well as partners, within firms, to build on the robust information already in place for London.

110. The Lord Chancellor has also committed to a judicial diversity strategy with the Lord Chief Justice and the Chair of the Judicial Appointments Commission (May 2006), that will require a wide and increasing representation of BME solicitors and barristers in the practitioner base to ensure that the pool from which we choose the judiciary is as broad as possible. We do not believe that the essential changes we are making to the legal aid system will have a detrimental impact on these broader aims.

111. The picture emerging from our research is complex. BME lawyers are well represented in the CDS (16% of solicitors), and we welcome that. They are employed in both white and BME-owned firms, the majority being in white-owned firms. BME firms have more BME clients than white firms, but BME firms have equal numbers of BME and white clients. Our policies have to do a number of things, including:

- Providing all clients with a high quality service including facilities (e.g. interpretation) which some may need;
- Enable all lawyers in BME or white owned and controlled firms to go as far as their ability allows;
- Enable young all lawyers to be able to enter the market where that is their choice, irrespective of their racial background.

112. We have taken no decision yet on minimum contract size. The LSC will need carefully to weigh the costs (particularly any impact on BME-controlled firms) and benefits of introducing a minimum contract size in reaching a decision, and any decision will need to be compliant with duties under the Race Relations Act 1976, as subsequently amended.

113. Having said this, we are confident that our reforms will benefit providers in the long term and are actively encouraging all practitioners to respond to each consultation we publish to ensure that the views of as many practitioners as possible can be taken into account as we make our decisions throughout the reform process.

**Stakeholder relations (recommendation 41)**

***Recommendation 41. There has been a catastrophic deterioration in the relationship between suppliers, their representative organisations, and the LSC. Unless the relationship improves, we do not see how implementation of these reforms can be successful. We urge all involved in legal aid reform to re-engage in a more constructive dialogue. (Paragraph 237)***

114. The Ministry of Justice and the LSC want a constructive relationship with stakeholders, including providers and their representative bodies. Following a recommendation made by Lord Carter, we have set up a new stakeholder group based on quarterly meetings, to develop a more open, transparent relationship. The meetings include senior representatives from the Law Society, Bar Council and Advice Services Alliance. There have now been two meetings: 1 February and 3 May, and the next one is planned for 24 July.
115. The MoJ and the LSC also have frequent meetings with providers and their representative bodies about the detail of the proposals so that we can listen to their concerns and can explain our reasoning behind the proposals. We shall continue to do this as we develop the remaining detailed proposals.

## Annex A - Civil Legal Help Matter Starts (non-Immigration) 2004-05 to 2006-07

2004-05

West Mids	50356
South	51630
South West	49751
Eastern	40597
Wales	43787
Yorkshire & Humberside	55244
Merseyside	32580
London	90988
North West	64296
North East	43958
East Mids	44904
<b>TOTAL</b>	<b>568091</b>

2005-06

West Mids	57192
South	56448
South West	54427
Eastern	43840
Wales	48722
Yorkshire & Humberside	59546
Merseyside	34770
London	102324
North West	67517
North East	47342
East Mids	45893
<b>TOTAL</b>	<b>618021</b>

2006-07

West Mids	57,154
South	58,826
South West	56,984
Eastern	47,008
Wales	49,129
Yorkshire & Humberside	60,134
Merseyside	37,240
London	112,552
North West	73,622
North East	49,168
East Mids	46,850
<b>TOTAL</b>	<b>648,667</b>

CLS Direct	20,000
Court Duty Possession	N/A*
<b>Total NMS</b>	<b>588,091</b>

CLS Direct	73,625
Other **	4,833
Court Duty Possession	12,031
<b>Total NMS</b>	<b>708,510</b>

CLS Direct	111,319
Other**	9,015
Court Duty Possession	27,562
<b>Total NMS</b>	<b>796,563</b>

\* During 2004-05 there were only a number of schemes in operation. Matter numbers were negligible and therefore they have been excluded.

\*\* eg. Partnership Initiative Budget, Family Pilot, mediation

**Civil Legal Help Matter Stats (non-Immigration) 2004-05**

**Solicitors Starts**

	West Midlands	South East	South West	Eastern	Wales	Yorkshire & Humberside	Merseyside	London	North West	North East	East Mids	Totals
AAP	393	188	187	47	166	477	506	1068	480	658	411	4581
COM	302	179	147	32	161	196	347	1471	117	52	96	3100
CON	231	492	537	272	397	274	56	263	48	384	384	3338
DEB	1092	871	975	652	1954	983	1675	1142	1477	2041	1576	14438
EDU	162	107	323	41	179	190	122	733	105	98	182	2242
EMP	286	608	579	484	464	565	42	1044	307	451	469	5299
HOU	2674	5301	2860	1507	2540	3767	2792	22009	3710	2713	1905	51778
MAT	27480	28974	27109	24951	20737	33201	8361	27280	31683	21410	24550	275736
MHE	1430	2512	1898	1520	1098	2294	1967	12243	2453	1341	2017	30773
MSC	786	1041	1146	874	1519	636	169	611	158	1702	1001	9643
PUB	260	40	177	17	21	264	126	410	12	29	276	1632
WB	1756	820	938	471	1861	1476	6630	5029	2281	1630	1026	23918
PI	208	192	210	138	438	550	129	328	132	571	256	3152
MED	331	269	503	224	333	518	246	353	282	356	277	3692
<b>Total</b>	<b>37391</b>	<b>41594</b>	<b>37589</b>	<b>31230</b>	<b>31868</b>	<b>45391</b>	<b>23168</b>	<b>73984</b>	<b>43245</b>	<b>33436</b>	<b>34426</b>	<b>433322</b>

**NfP Starts**

	West Midlands	South East	South West	Eastern	Wales	Yorkshire & Humberside	Merseyside	London	North West	North East	East Mids	Totals
AAP	0	0	0	0	0	0	0	0	0	0	0	0
COM	133	0	46	5	0	1	0	42	60	65	7	359
CON	32	8	18	41	2	4	62	162	120	148	4	601
DEB	5990	2785	4388	3429	3767	3185	2804	3425	7523	4160	3433	44889
EDU	0	0	31	219	0	0	4	101	65	1	0	421
EMP	422	216	129	413	26	315	451	858	1000	371	158	4359
HOU	1440	3515	3462	2323	3788	3225	1272	4666	4331	1600	2817	32439
MAT	27	49	108	68	10	23	399	395	58	29	60	1226
MHE	0	1	0	0	0	15	0	115	99	0	0	230
MSC	0	74	18	2	1	1	0	143	10	3	0	252
PUB	0	0	0	0	0	0	0	6	11	0	0	17
WB	4921	3388	3962	2867	4324	3084	4420	7090	7773	4145	3999	49973
PI	0	0	0	0	1	0	0	1	1	0	0	3
MED	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>12965</b>	<b>10036</b>	<b>12162</b>	<b>9367</b>	<b>11919</b>	<b>9853</b>	<b>9412</b>	<b>17004</b>	<b>21051</b>	<b>10522</b>	<b>10478</b>	<b>134769</b>

**COMBINED**

<b>TOTAL</b>	<b>50356</b>	<b>51630</b>	<b>49751</b>	<b>40597</b>	<b>43787</b>	<b>55244</b>	<b>32580</b>	<b>90988</b>	<b>64296</b>	<b>43958</b>	<b>44904</b>	<b>568091</b>
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Civil Legal Help Matter Stats (non-Immigration) 2005-06

Solicitors Starts

	West Midlands		South East		South West		Eastern		Wales		Yorkshire & Humberside		Merseyside		London		North West		North East		East Mids		Totals		
AAP	355	212	212	212	66	203	449	384	1130	406	652	485	4554												
COM	303	234	207	207	21	157	343	466	1475	138	81	275	3700												
CON	234	535	567	567	251	433	229	132	281	30	391	310	3393												
DEB	1344	1007	1134	771	771	2549	1257	1580	1655	1441	2254	1713	16705												
EDU	156	108	296	43	43	301	204	81	746	32	80	145	2192												
EMP	362	683	512	512	515	590	701	85	1123	265	516	479	5831												
HOU	3662	5701	3473	1779	1779	3290	4840	3113	24256	4015	3210	1772	59111												
MAT	28637	29710	26662	25134	25134	21424	35182	8733	27260	32183	22022	24958	281905												
MHE	1548	2568	1942	1749	1749	1200	2460	2115	14254	2722	1452	2127	34137												
MSC	741	968	1116	721	721	1530	531	199	442	89	1664	944	8945												
PUB	187	80	188	36	36	28	222	177	611	4	63	169	1765												
WB	1940	600	934	499	499	1948	1327	6463	5832	2293	1460	638	23934												
PI	153	225	274	95	95	324	553	173	261	124	472	190	2844												
MED	334	285	470	181	181	350	497	249	421	263	274	228	3552												
<b>Total</b>	<b>39956</b>	<b>42916</b>	<b>37987</b>	<b>31861</b>	<b>31861</b>	<b>34327</b>	<b>48795</b>	<b>23950</b>	<b>79747</b>	<b>44005</b>	<b>34591</b>	<b>34433</b>	<b>452568</b>												

NIP Starts

	West Midlands		South East		South West		Eastern		Wales		Yorkshire & Humberside		Merseyside		London		North West		North East		East Mids		Totals	
AAP	0	0	1	0	0	3	0	0	0	3	0	0	0	0	0	0	0	0	0	0	0	0	7	
COM	138	26	46	1	1	16	23	6	100	82	72	18	528											
CON	2	39	45	57	57	91	3	6	196	3	12	1	455											
DEB	8112	3686	6689	4113	4113	4619	3653	3192	4625	8403	5267	3924	56283											
EDU	7	0	24	165	165	6	1	0	176	68	9	0	456											
EMP	482	209	772	559	559	56	324	489	1231	992	404	149	5667											
HOU	2389	5172	3855	2735	2735	4125	2936	1588	6159	5085	2266	2556	38866											
MAT	31	59	23	398	398	0	0	710	292	28	3	42	1586											
MHE	0	0	13	1	1	0	20	0	35	89	9	0	167											
MSC	1	15	3	4	4	39	3	1	377	6	3	0	452											
PUB	0	0	0	0	0	17	0	0	11	7	0	0	35											
WB	6073	4325	4968	3945	3945	5423	3788	4828	9367	8746	4706	4770	60939											
PI	1	1	1	1	1	0	0	0	5	1	0	0	10											
MED	0	0	0	0	0	0	0	0	0	2	0	0	2											
<b>Total</b>	<b>17236</b>	<b>13532</b>	<b>16440</b>	<b>11979</b>	<b>11979</b>	<b>14395</b>	<b>10751</b>	<b>10820</b>	<b>22577</b>	<b>23512</b>	<b>12751</b>	<b>11460</b>	<b>165453</b>											

COMBINED

57192	56448	54427	43840	48722	59546	34770	102324	67517	47342	45893	618021
<b>TOTAL</b>											

**Civil Legal Help Matter Starts (non-Immigration) 2006-07**

**Solicitor Starts**

	West Midlands	South East	South West	Eastern	Wales	Yorkshire & Humberside	Merseyside	London	North West	North East	East Mids	Totals
AAP	316	171	197	62	223	461	470	1239	404	711	398	4652
COM	315	183	95	91	145	377	452	1659	152	97	272	3838
CON	228	542	548	230	412	287	73	314	30	370	276	3310
DEB	829	1033	1079	813	2739	1057	1429	1975	1904	2205	1430	16493
EDU	143	69	237	41	246	202	72	664	2	52	103	1831
EMP	347	667	682	510	586	604	95	981	332	519	424	5747
HOU	3953	4960	3524	2014	3022	4706	3320	24234	3494	3590	1647	58464
MAT	28535	28520	27113	25198	20683	34901	8592	26656	31884	21608	24529	278219
MHE	1629	2440	1844	1730	1231	2771	1978	14120	2609	1448	2323	34123
MSC	591	897	1051	659	1354	611	247	316	71	1386	807	7990
PUB	152	93	154	44	24	254	195	612	4	85	112	1729
WB	1482	529	907	596	1871	1476	6596	6518	1927	1547	513	23962
PI	124	204	164	108	279	665	170	266	42	532	156	2710
MED	451	364	302	113	355	561	199	387	429	310	253	3724
<b>Total</b>	<b>39095</b>	<b>40672</b>	<b>37897</b>	<b>32209</b>	<b>33170</b>	<b>48933</b>	<b>23888</b>	<b>79941</b>	<b>43284</b>	<b>34460</b>	<b>33243</b>	<b>446792</b>

**NFP Starts**

	West Midlands	South East	South West	Eastern	Wales	Yorkshire & Humberside	Merseyside	London	North West	North East	East Mids	Totals
AAP	0	0	4	0	3	0	0	5	7	4	0	23
COM	171	38	77	3	6	16	2	183	169	47	9	721
CON	77	9	39	35	46	12	0	217	7	12	63	517
DEB	8004	5112	7660	5521	5364	4053	4016	6379	10734	6239	4215	67297
EDU	1	1	24	160	8	2	6	285	64	2	0	553
EMP	492	265	390	701	191	310	511	1933	1149	380	181	6503
HOU	2660	6986	4720	2782	4156	2458	1974	8031	6234	2394	3298	45693
MAT	0	259	1	547	2	69	698	642	28	1	0	2247
MHE	8	0	12	0	0	30	0	6	141	3	0	200
MSC	0	21	9	7	114	1	0	543	12	0	0	707
PUB	1	1	1	0	1	0	0	19	5	1	0	29
WB	6643	5462	6150	5043	6068	4250	6145	14292	11786	5625	5841	77305
PI	2	0	0	0	0	0	0	76	2	0	0	80
MED	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>18059</b>	<b>18154</b>	<b>19087</b>	<b>14799</b>	<b>15959</b>	<b>11201</b>	<b>13352</b>	<b>32611</b>	<b>30338</b>	<b>14708</b>	<b>13607</b>	<b>201875</b>

**COMBINED**

<b>TOTAL</b>	<b>57154</b>	<b>58826</b>	<b>56984</b>	<b>47008</b>	<b>49129</b>	<b>60134</b>	<b>37240</b>	<b>112552</b>	<b>73622</b>	<b>49168</b>	<b>46850</b>	<b>648667</b>
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