

Annex D: Community Legal Advice Telephone Helpline

2. Costs and Benefits

1. This IA identifies both monetised and non-monetised impacts on individuals, groups and businesses in the UK, with the aim of understanding what the overall impact to society might be from implementing these options. The costs and benefits of each option are compared to the do nothing option. IAs place a strong emphasis on valuing the costs and benefits in monetary terms (including estimating the value of goods and services that are not traded). However there are important aspects that cannot sensibly be monetised. These might include how the policy impacts differently on particular groups of society or changes in equity and fairness, either positive or negative.
2. All estimates are relative to the 2009-10 baseline. In so doing an implicit assumption has been made that there will be no inflationary uprating of provider fees during the current Spending Review period. In addition, as was made clear is the Government's intention in the consultation response, it assumes that there will be no revision of the current fees schemes for work under the new legal aid contracts that will be introduced when the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 is implemented.
3. This Annex assesses the cumulative impact of the telephone advice changes. The overarching IA summarises the cumulative impact of the Government's overall package of legal aid reforms (including those not in the LASPO Act 2012).

Option 0: Do nothing

Description

4. If the 'do nothing' option were pursued, clients would continue to access civil and family legal advice through the channel they currently use. The 'do nothing' option is compared against itself and therefore the costs and benefits associated with it are necessarily zero, as is its Net Present Value.
5. There are currently two distinct routes to civil and family Legal Help services:
 - (i) Clients may go directly to a face-to-face provider. Those eligible for legal aid and whose case is within scope of the system would then be offered face-to-face advice.
 - (ii) Clients may phone the Community Legal Advice¹ (CLA) helpline. Initial calls are dealt with by Central Operator Service staff. They assess whether the problem is within scope for civil legal aid, and they also complete a financial eligibility assessment for civil legal aid, if appropriate. Where it is clear that the client is not eligible for legal aid the central operator service directs them to other possible alternative sources of assistance where appropriate. Where further assistance is required, operator staff refer clients eligible for legal aid to CLA specialist telephone advisers in cases where they consider this to be the most appropriate route to resolve the problem.
6. The client currently therefore can choose to access Legal Help through either the CLA helpline or through a face-to-face provider. The CLA helpline currently provides specialist telephone advice in six categories of law: debt, education, welfare benefits, employment, housing, and family. Callers who are not eligible for legal aid are sign-posted to appropriate sources of help, including self-help resources, other national telephone advice providers and local advice organisations.
7. The CLA helpline provided approximately 417,000 acts of assistance during 2009/10, of which 127,000 related to the provision of specialist advice. Approximately 85 per cent of acts of assistance at the specialist level within Legal Help are provided face-to-face and the remainder by phone. On average, cases dealt with through the helpline cost an estimated 50 per cent less than the equivalent face-to-face service. However, the difference in terms of client case requirements between the clients choosing to access Legal Help through the CLA helpline and face-to-face advisors is currently unknown.

¹ Community Legal Advice (CLA) is also referred to as Legal Help.

Option 1: Establish the CLA helpline as the mandatory gateway to civil legal aid services and extend the provision of specialist telephone advice services for non-gateway areas of law

Description

8. The policy is that in future clients with issues in an initial limited number of areas of law would be required to access civil legal advice services through the CLA helpline acting as the mandatory gateway. These would be in cases of debt (as far as it is in scope), Special Educational Needs and discrimination (claims relating to a contravention of the Equality Act 2010). Channelling people in these areas of law through the gateway would enable central operator service staff to diagnose the nature of the problem and route clients to the services and channels most appropriate for their circumstances. As well as the initial mandatory areas of law, the CLA helpline will continue to offer specialist legal advice in family and housing. Clients seeking legal aid in these non-mandatory areas of law will continue to be able to contact the helpline or go direct to a face-to-face provider.
9. For all other types of issues within the scope of legal aid, the client would have a choice to access civil legal advice through either the CLA helpline or through a face to face provider.
10. The mandatory gateway will be delivered in two stages:
 - (i) Initially a caller will be required (subject to some exceptions) to **apply for legal aid** in the areas of law to which the mandatory gateway applies by contacting the **central operator service**. The operator service staff are specifically trained to help the caller to identify the nature of their problem and assess whether they would benefit from use of one of the specific adaptations available to the service, such as the operator calling them back to reduce the cost of the call, a telephone translation service if a person has limited or no spoken English, or a third party such as an available family member assisting the caller with the call. The central operator service will assess whether the problem is within scope for civil legal aid, and will also complete a financial eligibility assessment for civil legal aid, if appropriate. Where the central operator service is fully satisfied that the client is either not eligible for legal aid or suitable for telephone advice the central operator service will direct them to other possible alternative sources of assistance including, where appropriate, a provider who will be able to provide suitable face to face services.
 - (ii) Where the individual either satisfies these preliminary checks or the central operator service is unclear whether the issue is within the scope of legal aid, the client will be transferred to a **specialist telephone advice provider**. Where the specialist telephone advice provider is satisfied that they are suitable for telephone advice, the client will be required to receive that advice over the phone. However, if the specialist telephone advice provider is satisfied that they are not suitable for telephone advice, the client will be referred to an appropriate face to face service. The key test will be whether they are able to give instructions and act on advice given over the telephone.
11. The exceptions to contacting the gateway will be where the client is a child, where the client is in detention or where they have been assessed by the gateway as requiring face-to-face advice in the previous 12 months and are seeking to resolve a linked problem from the same provider. In addition, all callers would be assessed on a case-by-case basis to assess their suitability for telephone advice. While face-to-face advice provision would be scaled back in the categories where the gateway will apply, it would still be available where exceptions applied or where telephone advice would not be appropriate, for example where it is clear that the caller would not be able to give instructions over the telephone or act on instructions given through the telephone-based service. Emergency cases where Legal Representation only is required will also be exempted from the mandatory gateway.
12. The Government is committed to reviewing the whole implementation, including operation, of the gateway in the initial three areas of law, and publishing the report of the review within 2 years of

implementation, and before any decision about the possible extension of the gateway into other areas of law is taken.

13. It is intended that non-mandatory specialist telephone advice services will, over time, be extended to include other areas of law remaining within the scope of legal aid, where appropriate. However, specialist telephone advice will not be introduced for asylum matters.

Option 1: Costs

Net costs related to legal aid clients

14. Some clients may prefer face-to-face advice and therefore feel worse off in terms of perceived service quality because they are not using their preferred option to secure advice. Evidence on the drivers and barriers of channels shift, indicated that face to face channels may be preferred for the delivery of complex advice and sensitive information². This also suggested that those with complex problems³ as well as vulnerable people⁴, older people⁵ and those facing communications problems (such as English being a second language) may find it difficult to switch away from face to face channels. However, other evidence in the area of debt advice⁶ suggests there are misconceptions about the use of remote channels of access to advice in complex situations. It reports that those who have experienced the use of remote channels during difficult situations have had largely positive experiences and outcomes.
15. Specialist telephone advice providers are currently required to meet higher quality standards than their face to face counterparts. The LSC are currently reviewing the quality standards of all CLA contracts in order to ensure that they remain appropriate and fit for purpose once the LASPO Act is implemented. While the precise detail is still being developed, the tender process, overall quality requirements and contract management approach for the specialist telephone advice providers will mean that they will continue to meet a higher service standard than that expected of equivalent face to face advice providers. In addition, the helpline includes a number of provisions to address the needs of callers such as a three way translation service available in 170 languages and reasonable adjustments for disabled callers.
16. It is possible that some clients may prefer the convenience offered by telephone services, but are currently unaware that they are able to access these services. This possible lack of awareness has been raised in recent research⁷. Evidence on the drivers and barriers of channels shift suggests that raising awareness of new channels is key in helping motivate customers to use them⁸. In many cases the provision of telephone advice would enable them to make contact at a time and place convenient to them. The opening hours of the CLA helpline are longer than is typically the case with face-to-face services. The CLA helpline is open 9am to 8pm Monday to Friday and 9am – 12.30pm on Saturday.
17. Currently clients seeking face-to-face advice may have to initially phone the face-to-face provider and wait for an appointment with that provider. Although the requirement to access services through the CLA Operator Service may restrict a client's choice in terms of their possible preferred method of receiving Legal Help, their problem resolution is likely to be quicker as the operator service refers the client to the specialist telephone advice providers on the same day. In some cases this might lead to earlier resolution and so help prevent problems multiplying and escalating.

² IDEA (2008) *Information needs when making complex decisions*, London: IDEA

³ Hall, S., Pettigrew, N., Robins, A. and Sweetman, R. (2007) *The relationship between HM Revenue & Customs, its customers and the voluntary and community sector*, London: HMRC

⁴ Hasluck, C., Mhonda, J., Winter, E., Durrant, C., Thompson, M., Dobbs, L., and Christou, G. (2005) *The use and development of alternative service delivery channels in Jobcentre Plus: a review of recent evidence*, London: DWP

⁵ Barnard, H. and Pettigrew, N. (2003) *Delivering benefits and services for black and minority ethnic older people*, London: DWP; Coleman, N., Jeeawody, F. and Wapshott, J. (2002) *Electronic government at the Department for Work and Pensions - Attitudes to electronic methods of conducting benefit business*, London: DWP; Collinge, A., Gray, S. and Hall, N. (2003) *The Pensions Service's Interactive Digital Television Pilot: A Qualitative Evaluation*, London: DWP; Howat, N., Norden, O and Garnett, E. (2008) *The Pension Service Customer Survey 2007*, London: DWP and Kelly, G., Williams, B., Howat, N., Kay, S. and Scheer, R. (2004) *The Pension Service Customer Survey 2003*, London: DWP

⁶ Money Advice Trust, Debt Advice Channel Strategy Research, February 2012

⁷ Money Advice Trust Debt Advice Channel Strategy Research. February 2012.

⁸ Hasluck, et al. (2005). (cited above)

18. The CLA helpline is not free to call⁹. Therefore the cost to customers of accessing the legal aid service may be higher under the policy than accessing face to face advice, where a telephone call may not be necessary. However, to mitigate the effects of these costs on clients the CLA Operator Service offers various 'call back' services. A caller can ask the operator staff to call them back, can text the operator service to request a call, or a 'call back' request can be made online. This will be important, as evidence on the drivers and barriers to 'channel shift' suggests lack of access to a landline telephone can be a barrier to using helpline services¹⁰. While this evidence suggested that access to a mobile phone did not appear to offset this barrier, particularly when services use non-geographic telephone numbers (e.g. numbers beginning 0800, 0845 and 0870), which are expensive to call from a mobile¹¹, the call back provision can potentially mitigate against this. 'Callers' will also have the option of contacting the gateway and communicating with the specialist telephone advisors via secure email.
19. In addition to a possible impact on perceived service quality and cost of accessing the service, it is possible that case outcomes may be impacted for telephone contact in certain types of cases and telephone providers may have a more limited local knowledge when compared to face-to-face service provision. However, by establishing CLA as the mandatory gateway to civil legal aid services in the three areas of law, it is envisaged that clients will benefit from consistency of advice and improved service quality.
20. The LSC has analysed available data on case outcomes to identify whether they are dependent on the channel used. Initial findings indicate that there are some differences across the current categories of law. In Housing law the proportion of clients deriving substantive benefit is similar for both face to face and telephone services. This is substantiated by the LSRC's study comparing phone advice and face-to-face advice¹², however it points out that the type of substantive benefit achieved is different between face to face and telephone advice. Clients are more likely to gain substantive benefit from a face to face service in Debt, Welfare Benefits and to a lesser degree Employment law. However, in Family and Education law, CLA telephone service clients are more likely to derive a substantive benefit in their case outcome. There are a number of possible explanations for this difference including: a different breakdown of matter type, higher proportion of clients referred on to a face-to-face provider e.g. where representation is required, or the caller having only a simple query which is resolved at the operator stage and this outcome not being counted as a substantive benefit. The LSRC's study controlled for these types of issues, however the study concentrated on housing issues and did caveat against whether the findings could be applied across other areas of law.
21. Before any further conclusions can be drawn about the possible difference in outcomes based on channel a more detailed investigation is required. This includes further exploration on the impact of both client choice and the established referral practices within the telephone service. In addition, the categories required to go through the gateway will not be the same as present helpline categories, so future benefit types will not all be directly comparable.
22. As previously mentioned, the policy envisages that clients would be referred to face to face services where specialist telephone advice would be inappropriate (for example where the client could not give clear instructions over the telephone or act on the advice given over the telephone). This should minimise the risk of possible unintended outcomes described above. The assumed proportion of current face-to-face clients deemed appropriate for specialist telephone advice is outlined in Table 1.

Table 1: Percentage of current face-to-face clients referred to specialist telephone advice service

9 The CLA helpline operates through a 0845 telephone number. There is a charge to callers ringing this number from both landlines and mobiles (although some landline call packages now include such numbers within their free minutes bundle). The cost of calls from mobile telephones to this number will vary and will generally be higher than from a landline.

10 Hasluck et. al. (2005), cited above

11 Duffy, D., Roberts, S. and Stafford, B. (2010) *Accessing Jobcentre Plus Customer Services: a qualitative study*, London: DWP; Coulter, A., Sinclair, P., Muscat, R. Joyce, L. (2009) *Research to explore tax credits claimants' experiences of the Assisted Claims pilots: Levels 2 and 3 summary report*, London: HMRC; Ipsos MORI (2008) *Tax Credits and Household Break-ups*, London: HMRC; Ipsos MORI (2009) *HMRC Reporting Births Project*, London: HMRC; Nunn, A., Falton, F. and Jassi, S. (2009) *A qualitative study of satisfaction and dissatisfaction with Jobcentre Plus; an exploration of issues identified in the 2007 Customer Satisfaction Survey with a particular focus on those most likely to be dissatisfied*, London: DWP

12 Balmer et al. (2011) Just a Phone Call Away: Is Telephone Advice Enough? *Journal of Social Welfare and Family Law*, vol 33 issue 4,

LSC Statistical Category	% Referred to Specialist Telephone Advice	% Referred to use face-to-face advice
Debt	95%	5%
Education	90%	10%
Discrimination ¹³	90%	10%

23. In many cases there would be a reduced need to travel to face-to-face services resulting in savings for clients in terms of time and cost, although this may be partially offset if clients incur a cost by calling the CLA helpline service and remaining face-to-face clients need to travel further. As explained in paragraph 18, however, there are a number of call back options offered by CLA which minimise call costs for clients.

24. There are also a number of potential non-monetary impacts for clients:

- Delivering a greater proportion of advice by telephone may cause accessibility issues for some clients, for example due to literacy issues, language barriers, problems acting on advice given, or an inability to pick up on non-verbal cues (as cited in various sources, see paragraph 14 for details). However, the suitability of all callers for telephone advice will be assessed on a case-by-case basis. In addition, there are a range of facilities to aid access to the telephone service, including a free translation service and facilities for British Sign Language webcam, Minicom and Typetalk, which are not routinely available when contacting face-to-face advice providers.
- All CLA gateway clients would be able to receive some level of information and help through the Operator Service irrespective of whether they are eligible for Legal Aid. This would be provided by signposting to other available sources of help.
- In the family and housing areas of law, a client will continue to be able to choose whether they access civil legal advice through the CLA helpline or direct with a face-to-face provider. The client would therefore not incur any additional costs as they are not required to access civil legal advice through the CLA helpline. This is the same as under the 'do nothing' option.

Costs for legal services providers

25. The policy envisages exploring the potential for a shift away from face-to-face advice (which includes not-for-profit providers as well as lawyers) to telephone advice provision. As a consequence, the value and, possibly, number of face-to-face contracts will diminish and hence many current face to face advice contract holders in the areas of law in which the mandatory gateway would apply will be impacted. The size and nature of the residual requirement for face-to-face advice is likely to vary between the three areas of law covered by the gateway. The direct cost of the gateway to the legal aid service provider will mirror the benefits to the legal aid fund. This has been estimated to be between £1 million and £2 million.
26. Face-to-face providers who hold contracts to provide advice in the categories of law for which the mandatory gateway would apply may have less control over case allocation and marketing as the majority of the legal aid work they would receive would be from referrals from the telephone service.
27. It is intended that all advice providers (whether current contract holders or not) would be able to bid for re-tendered telephone and face-to-face contracts under the policy.

LSC costs – one off costs

¹³ The data is not available to assess the impact on discrimination cases therefore they have been excluded from the analysis.

28. One-off costs would be associated with developing the necessary new phone capacity. As provision of these services is currently outsourced, and will continue to be so, there are no anticipated significant capital or investment costs for the LSC or MoJ.
29. There are no expected MoJ or LSC staff or estate costs associated with the required changes to phone contact given that the services in question are outsourced. Existing contracts for the provision of telephone advice would need to be re-tendered in the future whether or not these policies are implemented, therefore no additional one-off procurement costs are expected.
30. The policy may involve additional procurement costs resulting from the tender process required for implementing the policies, for example if there is an increased interest and a higher volume of providers bidding for available contracts.
31. While the necessary channel shift to telephone legal aid advice services for the three initial areas of law will be achieved primarily through mandating the use of the CLA helpline service, some spending on marketing of the CLA brand may be required. This assumes that this future spending on marketing would be consistent with wider government policy on such expenditure at that time.
32. The LSC have estimated total one-off costs of around £2m. However, the chosen implementation option, final reform package and contract tenders are likely to influence this estimate.

LSC costs – ongoing costs

33. The policy involves extra costs at the Operator Service stage as it is assumed that the establishment of the CLA as the mandatory gateway to civil legal aid services in the areas of law indicated above is likely to lead to an increase in average call lengths at the Operator Service stage (as triage may take longer for some callers than is currently the case), with an assumption that costs will rise by 33%. This would result in an estimated overall increase in Operator Service costs of around £0.4 million per year¹⁴
34. Average call lengths may also increase for areas of law, such as debt, where specialist advice is already offered, for example if the additional cases take longer to resolve. Further, there would also be additional costs to CLA from any extension to the current scope of the specialist advice service (providing advice for an expanded set of categories of law). However, the policy is expected to result in overall savings at the specialist advice stage, and hence impacts on specialist advice are covered in the benefits section of the IA.
35. Ongoing staff, estate and procurement costs within the LSC are not expected to increase significantly as a result of the policy, primarily as the provision of advice services is outsourced and would continue to be so.
36. It is possible that the volume of calls might further increase, for example due to greater public awareness of the service or resulting from improved perceptions of service quality, or if service capacity or quality falls elsewhere in the legal advice sector. To provide context, an estimated 4 million clients have a civil problem and seek some form of advice per year. Call volumes might also be higher if there was an increase in repeat calling.
37. Alternatively, an increase in the call volumes may not ultimately occur, for example if clients decide to access (and possibly pay for) other face-to-face advice provision rather than phoning the CLA helpline. A central estimate has therefore been used. Sensitivity analysis has been shown little impact on the costs of increased call volume.

Option 1: Benefits

Legal aid fund

¹⁴ Doing a range of sensitivity analysis on the two main assumptions (cost per call and number of calls per face-to-face case) the increase in the operator service cost is negligible.

38. Reductions in expenditure on legal aid would be generated by dealing with a greater proportion of specialist cases by phone instead of face-to-face. Based on current call volumes and call lengths for the six categories of law in which specialist advice is provided at present, current estimates suggest that providing specialist advice by phone rather than face to face may save around 50 per cent per case on average.
39. Based on the types of cases in each category of law, the LSC expect that around 30,000 cases could appropriately be offered specialist advice over the phone, rather than face to face after the other legal aid reforms have been taken into account. Assuming that the savings made for current categories of law can be achieved for each case in the expanded CLA specialist advice service, this suggests that an estimated £2 million saving per year could be made.
40. Savings would be lower if specialist advice call lengths increase as a result of the policy. To account for this, a 'low savings' scenario has been developed in which specialist advice savings per case are 30 per cent lower than assumed above. In this lower scenario, specialist advice savings would fall to an estimated £1 million per year.
41. The LSRC's research outlined the difference between mode of advice and advice time. Their results suggest that, once controlling for factors such as client demographics, case type and stage reached, telephone advice took marginally longer than face to face advice. This study was conducted on housing cases only which are not initially being considered as a mandatory gateway category. Whether these results would apply to advice in the mandatory gateway categories was not explored in the research.
42. As face to face services would continue to operate, albeit for a smaller volume of cases, the policies would not provide significant LSC administration savings resulting from LSC not needing to maintain and develop face to face services.
43. This option offers LSC greater control over how they fund cases as the service can be set up to apply a more rigorous approach to taking any action on cases, including advising when other channels are more appropriate.
44. The impact of policies for the future commissioning of CLA specialist telephone advice contracts could lead to increased appetite to bid from both existing legal aid providers as well as new entrants from the private sector. This could lead to greater competition potentially resulting in reduced cost to the LSC.

Benefits for legal aid providers

45. As a result of this policy there would be a need for the LSC to re-tender for the Specialist Telephone Advice provision at the appropriate time including in those categories of law where this service is not offered at present. In principle, all organisations with the capacity to provide these services would benefit from this increase in the demand for their services. It is envisaged that the tenders would be open to both existing providers and new bidders.
46. Under the existing CLA virtual call centre system, there is no requirement for providers to invest in expensive IT or telephony systems in order to offer the necessary services. All that is required is phone and secure Internet access. It is assumed that this would continue to be the case.

Option 2: Offer callers who are ineligible for legal aid or who are out of scope access to a paid-for advice service through the Community Legal Advice helpline

Option 2 would be implemented in addition to Option 1 therefore any costs and benefits associated with Option 1 would also apply to Option 2.

Description

47. Under this option the CLA service would also be expanded to include a new service which could offer callers, who are financially ineligible for legal aid or where their case is out of scope, the choice to be referred to paid-for advice services. In addition to providing legal aid advice services, CLA specialist telephone advice providers would also be able to offer a paid-for specialist advice service to those clients referred to them by the central operator service. The central operator service would confirm the associated charges with the caller at the operator service stage, and would also confirm that the caller is willing to be referred to the paid-for service. We propose to run a pilot scheme to further examine the feasibility of offering the option to pay for advice over the telephone.
48. The LSC would set out in the relevant tender requirements in respect of issues such as quality standards and assurances about standards of service. We envisage that the tender process would enable advice providers to bid to provide legal aid services only or both legal aid and paid-for services. However, we do not envisage that we would direct particular providers to offer services at a set rate.
49. At this stage the quantified overall savings to the LSC are unknown. Additional revenue for the LSC may be available, and non-eligible clients may benefit from direct referral to paid-for specialist advice. However, this service model would probably require the LSC to incur some additional monitoring and enforcement costs. The overall savings from this policy will be based upon a competitive tender process. Therefore these and any additional costs from monitoring and enforcement have not been quantified. The pilot scheme mentioned above will help to quantify the likely relevant costs and benefits.

Option 2: Costs

Net costs related to legal aid clients

50. Callers who are ineligible for legal aid would benefit from having the option of being referred by the central operator service staff to quality assured specialist advice services. In many instances Operator Service staff would be able to refer clients directly to paid-for providers and so minimise the risk and possible delay in accessing specialist services that clients could incur if they were left to search for paid-for advice themselves. The paid advice services referred to are assumed to be competitive within the paid-for advice market.
51. However, non-legally aided clients opting for paid-for advice would incur the cost of calling CLA in order to access paid-for advice services. Although, their original call may have been initially to check eligibility so they would have incurred the cost of the call anyway. The LSC tender is likely to indicate the maximum rates chargeable for these services and prices would be set at sufficiently competitive rates within the wider advice market. There is however a risk that non-legally aided clients may be less likely to shop around for advice from the wider market, which may result in higher or lower prices being paid for advice. This may occur if the client is not inclined to shop around or considers a paid-for advice service signposted to by a Government telephone helpline service sufficiently meets their needs. A survey of just over 900 people using legal services (four in five who had paid for the service themselves) suggests people are less likely to shop around for wider advice - most go on recommendations from family, friends (mentioned by 29%) or another organisation (mentioned by 23%)¹⁵. Many users feel they have enough choice of legal service providers however few consider a wide range of providers.

¹⁵ Finch, S., Ferguson, C., Gilby, N., and Low, N. (2010) *Baseline survey to assess the impact of legal services reform*. London: Ministry of Justice

Costs for legal services providers

52. There may also be a cost to the wider paid-for advice market if more clients seek paid-for advice through CLA rather than through traditional routes. This may reduce demand and / or income for traditional routes and established providers.

LSC costs – one off costs

53. It is envisaged that the requirements in respect of the provision of a paid-for service would be incorporated into a re-tendering process for specialist CLA telephone advice services and therefore there would be no significant additional procurement cost from the provision of referrals for paid-for advice. There may be some additional set up costs (and, possibly, an associated ongoing cost) to the LSC the initial testing of such a service, such as monitoring, management and evaluation in order to establish the charging mechanism. Based on discussions with the LSC this cost is not expected to be significant.

LSC costs – one off costs

54. It would be necessary to manage the risk that ineligible clients are referred inappropriately to paid-for advice through monitoring of central operator service processes which may increase costs to LSC. There is therefore likely to be an ongoing monitoring and enforcement cost for LSC, although it is not anticipated that this cost would be significant.

Option 2: Benefits

Legal aid fund

55. During the process of conducting the pilot scheme outlined above we will examine further the issue of the most appropriate charging mechanism for this service. At this stage it has not been possible to estimate the size of these potential additional savings for LSC.

Benefits for legal aid providers

56. In addition, advice providers may benefit further from the potential to derive income from fees charged to non-eligible clients for paid-for advice services. It has not been possible to estimate this impact.

Assumptions and Risks

57. The assumptions outlined in this section have been used to analyse the estimated impacts of the policies, and apply to all options considered unless stated otherwise:
- (i) the LSC have estimated the proportion (and volume) of cases in the three categories of law proposed for the mandatory gateway for which specialist advice could appropriately be provided by phone (outlined in Table 1). These estimates take into account the likely mix of types of cases and client needs for the three categories.
 - (ii) It has been assumed for categories of law where specialist advice is already provided by phone and categories of law where this service is not currently offered that the telephone advice will be cheaper than the equivalent face-to-face provision in the categories. The average specialist advice savings generated across existing categories of law are assumed to apply to the cases switching to the telephone service in areas of law in which specialist telephone advice is not currently offered (estimated to be around 50%). To account for the fact that the cases remaining in scope might take longer we have applied a 33% reduction to this figure for the low scenario.
 - (iii) these savings reflect assumptions about the proportion of current face to face cases which might be handled by phone in future and the proportion which still require face to face service;

- (iv) it has been assumed that people who currently access face-to-face advice services would, instead, ring the CLA helpline in those categories of law for which the mandatory gateway will apply. This would increase the cost of providing the Operator Service. It has also been assumed that every case currently dealt with face-to-face would generate 1.55 calls to the Operator Service on average (to reflect the risk of ineligible and repeat calls etc);
- (v) it has been assumed that the average length of a call to the Operator Service would increase the cost per call by around 33%, reflecting, among other factors, the likelihood of an increased time needed to conduct effective triage in respect of the calls received;
- (vi) there might be an impact on customers' perceived service quality, including customer satisfaction, customer costs and customer outcomes. However, it has been assumed that mitigating actions would be successfully undertaken to prevent any unintended impacts on service quality. Consequently it has been assumed that the quality of Legal Help would remain at current levels and that there would be no onward impact on the number of cases funded at the Legal Representation stage i.e. there would be no indirect downstream costs or benefits to the LSC as a result of the policy;
- (vii) it is assumed that it will be possible to provide a residual face-to-face service of the required quality and coverage to deal with cases not appropriate for telephone advice provision. This will be achieved by tendering for integrated telephone and face-to-face contracts for the gateway categories. As now with the current telephone services, these contracts will be subject to price competition on the basis of hourly rates for both telephone and face to face services.
- (viii) It is also assumed that the volume of cases on offer and case mix is sufficient to derive value for money bids from those wishing to provide specialist advice over the telephone;
- (ix) The overall savings may be slightly higher than stated in this Impact Assessment as discrimination is not currently a discrete category of law and the LSC's figures may have not captured all the required cases to calculate the discrimination CLA savings. The discrimination savings are therefore likely to be an underestimate.
- (x) The costs and savings associated with the policy take into account the changes to the scope of legal aid. The reforms to scope were given Royal Assent on 1st May 2012 and became part of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act. Any changes to the LASPO Bill have been reflected in this IA.
- (xi) for Option 2, it is assumed that there will be a sufficient supply of (paid-for) advice providers willing to provide paid-for advice services alongside free-to-client services i.e. that the proposed service model is commercially viable. In part, this assumes that the demand for paid-for advice is sufficient;
- (xii) under Option 2, it is also assumed that the LSC would appropriately regulate the new CLA service to ensure clients were directed to the most appropriate source of advice, including whether this advice were free or not. In particular, it is assumed that this would be sufficient to ensure that the revised model would have no impact on customer satisfaction or on case outcomes. Monitoring and enforcement costs are assumed not to be significant.
- (xiii) There is a risk that following the reforms to the scope of legal aid, set out in the Scope Annex, there might be an increase in the volume of ineligible callers to the CLA Helpline. The potential impact of this is discussed in the Scope Annex and not in this Annex.

58. Risks apply to all of the assumptions outlined above. Other risks worth mentioning include:

- (i) providing a proportion of advice and information services by telephone may create barriers to some clients accessing the services in the three initial specified areas of law. This may include language and hearing impairment barriers. However, the service will look to mitigate these by the provision of facilities such as a free three-way translation service, British Sign Language webcam service, Minicom and Typetalk within the design of the existing service. Conversely, the ease of using a telephone-based service may increase demand for the service beyond the planned capacity. Although Ministry of Justice and LSC are developing a channel strategy to investigate channel shift, expected volumes and to ensure sufficient telephone capacity;
- (ii) We assume that clients who contact existing face-to-face providers will be informed that they should contact CLA, however there is a risk this will not happen. Providers may try to retain clients and advise privately or through other forms of funding or they may simply turn clients away with no alternative. However, this will be less likely in categories where face-to-face

advice will be less available as there may be fewer legal aid providers for clients to contact. Ministry of Justice is also developing a communication strategy to increase awareness of the telephone advice service to mitigate against these possible situations.

- (iii) it may be difficult for telephone advice providers (particularly those new to the market) to recruit and retain suitably qualified staff in sufficient numbers with the necessary skills to deliver advice over the telephone.
- (iv) Operator call costs may increase due to increased call volumes, longer call lengths (due to complexity or inexperienced users of the phone service) or a less favourable deal on the retender of telephone contracts. However, we have taken these into account when calculating the savings figures.

3. Enforcement and Implementation

- 59. The assumption is that implementation of the mandatory gateway is likely to coincide with the changes to the scope of civil and family legal aid as introduced through the LASPO Act.
- 60. A pilot scheme to investigate the potential for paid-for services (Option 2) will be considered post LASPO implementation.

4. Specific Impact Tests

Equality Impact Assessment

- 61. The published equivalent Equality Impact Assessment (EIA) details the equality impacts.

Competition Assessment

- 62. The effect of an increased proportion of service delivery through telephone services would be a reduction in the number and value of face-to-face contracts. It would be necessary for LSC to re-tender for the contracts for face-to-face and telephone advice provision in particular areas of law. While there would likely be fewer contracts, there would be no significant restrictions on which organisations could bid for them as a result of the establishment of CLA as a single gateway in three areas of law.
- 63. To date the majority of CLA specialist advice providers have been face-to-face providers diversifying into telephone provision. The increased volume of calls to the CLA service could lead to an increased appetite to bid by both existing legal aid providers as well as by new entrants from the private and not-for-profit sectors and could lead to increased competition. Conversely the reduction in volumes of face-to-face provision may lead to reduced competition, particularly if the contract sizes are small.
- 64. The provision of a paid-for advice service (as outlined in Option 2) may prevent Not for Profit organisations from applying for the contracts because charging clients for services may run counter to the ethos and stated principles of their organisations. There may be an impact on the wider legal services market if clients for paid advice are referred to CLA providers as this may give them a competitive advantage in the market. Other providers may find it more difficult to compete for business, particularly if clients do not shop around for alternative advice. CLA providers may in time be able to utilise this competitive advantage to increase their prices and could even result in providers who do not have a contract with CLA being eased out of the market.
- 65. MoJ and LSC will examine the effects of these policies for paid-for advice on the issue of competition in more detail during the course of the pilot scheme outlined above in order to inform the design of any potential tender.

Small Firms Impact Test

66. The majority of organisations (both in the private and not-for-profit sectors) holding contracts with the LSC to provide face-to-face advice contracts have less than 50 employees (and would therefore be categorised as small). In 2009/10 almost all contracts for family matters were held by solicitors firms while not-for-profit providers held approximately one third of the non-family contracts. As indicated in the Competition Assessment some small firms may be among the organisations to face reductions to (or loss of) their face-to-face contracts.
67. There is a risk that smaller organisations may be less likely than larger firms to win telephone advice contracts if they are unable to benefit from the economies of scale in bidding for a larger volume of work and reflecting this in their price bid. Small firms may also be less likely to have the expertise in operating a phone based service.

Carbon Assessment

68. We do not consider that there will be any significant change in Greenhouse Gas emissions as a consequence of this policy. The policies are likely to lead to a reduced need for a number of clients to have to travel to seek legal aid as they will be able to access the necessary services by telephone. However, the reduction of the number and value of face-to-face contracts could lead to a small number of clients having to travel further for face-to-face advice (i.e. where the complexity of their case or their specific circumstances meant that face-to-face services were appropriate). The net effect of these impacts is not likely to be significant.

Other Environment

69. We do not anticipate any significant impact on the environment as a consequence of this policy.

Health Impact Assessment

70. We do not anticipate any significant impact on human health or the demand for health and social care services in the UK as a consequence of this policy.

Human Rights

71. The policies in this IA have been subjected to a Human Rights screening to ensure it is compliant with the Human Rights Act 1988.

Justice Impact Test

72. The overall impact on the justice system is detailed in this Impact Assessment.

Rural Proofing

73. As stated above the envisaged reduction in the number of face-to-face contracts may mean that in some cases it will be necessary for clients to travel further to access face-to-face advice services.
74. Our examination of forecasts of the consequent reduction in income on existing face-to-face providers does not demonstrate a significant difference between urban and rural organisations.

Sustainable Development

75. We do not anticipate any significant impact on the principles of sustainable development as a consequence of this policy.

Annex 1: Post Implementation Review (PIR) Plan

Basis of the review:

It is intended to review the entire package of Legal Aid Reform policies implemented following the June 2011 Consultation Response on the Legal Aid Reforms in 2016. However, prior to any decision about the possible extension of the gateway into other areas of law, the Government have committed to reviewing the mandatory gateway in the initial three areas of law and publishing a review within 2 years of implementation.

Review objective:

To ascertain whether the provision of a greater proportion of legal aid advice by telephone has had the expected impact on the affected groups outlined in this IA.

Review approach and rationale:

The intention is to monitor and review the impact of the policies on all affected groups outlined in the Impact Assessment, and Equalities Impact Assessment. This is likely to involve the collation of existing administrative data from a variety of sources, including the LSC, HMCTS and providers. We have identified a number of areas where there are limitations in the administrative data and we will explore the feasibility improving data coverage and quality in the medium and longer term. We will complement use of administrative data with bespoke research exercises where appropriate. For example, the MoJ is planning to conduct a new study of legal aid clients to provide additional information on a range of client characteristics, including protected characteristics and income and capital to inform our review of the implementation of these reforms. We are also working with the Legal Services Board (LSB) and the Law Society to produce further research on providers. The Legal Services Research Centre has examined alternative modes of access to legal advice, comparing face-to-face and telephone based services. We will keep research needs in this area under review.

Baseline:

The impact of the policies to further develop telephone advice services will be assessed against a 2009/10 baseline for LSC expenditure and volumes data which all telephone and face-to-face costs and savings figures in this IA are based upon.

Success criteria:

Whether the objectives of the reforms outlined in the IAs and in the Consultation Response document have been met.

Monitoring information arrangements:

It is intended to make use of the data LSC systems routinely collect in addition to existing administrative data sources, including HMCTS and providers. As set out above we will explore the feasibility of addressing some of the known limitations of the existing data.

Reasons for not planning a PIR:

N/A.

