

Briefing Note: Legal Services Commission

The purpose of this briefing note is to provide Councillors on the Overview & Scrutiny Committee with some background information on the Legal Services Commission Reforms relating to the introduction of the unified contracts.

Background

The Council (Housing & Community Care) currently fund two main providers on a three year Service Level Agreement (SLA). The Brent Citizens Advice Bureau (CAB) provides generalist advice and assistance and the Brent Community Law Centre (BCLC) provides specialist advice and assistance. Both agencies have signed up to a referrals protocol to accept referrals from the Council's Housing Advice Service (HAS) and Tenancy Protection Team (TPT). The BCLC also provide comprehensive second tier advice and support to the Council's Housing Advice Service. The total cost of these services is approximately £620k per annual.

The LSC has contracts with 17 providers¹ in Brent with a total annual contract value of 1.1m under the proposed strategy for social welfare. The LSC have reviewed and changed its approach to contracting, the new approach is listed in their five year strategy, 'Making Legal Rights a Reality'. The proposal changes the way that civil legal advice services are funded, purchased and delivered.

Unified Contracts, fixed fee and the Law Society Court Case

The LSC implemented fixed fees as part of the Unified Contracts in October 2007. Prior to October 2007, the not for profit sector contract was based on delivering a set number of hours per annum. Under the new arrangements the sector must deliver a number of cases per annum. Payment is on the basis of performance, i.e. the number of closed cases.

The fixed fee is based on the average number of hours and salary costs across the country. In complex or exceptional cases the LSC will cover the full cost of a case reaching three times the value of a fixed fee.

Under the new arrangement, cases must be concluded within the specified national average timescale or less, where a case runs beyond the timescale no additional fees are payable with exception to the three times rule mentioned above.

At present it is too early to evaluate the full impact of the fixed fee changes. However, a number of voluntary sector providers have highlighted their initial concerns and frustrations with the new arrangements and clarification through discussions with the LSC have not resolved the specific concerns highlighted. The most significant concern centres on the issue of the nationally fixed fee. A number of specific considerations for London have been overlooked when setting the fixed fee. For example, London weighting has not been

¹ 13 Private Sector Solicitors & 4 Not for profit organisations

applied to the salary costs to balance the cost of living in London. Brent has a growing population with increased levels of deprivation. The diversity of a city such as London impacts the average length of time taken to conclude a case due to language barriers of non English speaking residents. Unfortunately the specific factors highlighted above result in a large proportion of cases falling between the fixed fee and three times threshold creating a financial deficit for the providers.

The outcome of the Judicial Review proceedings led by the Law Society against the Ministry of Justice and the Legal Services Commission resulted in a number of changes which are summarised in the Law Societies document attached for information. The settlement has resulted in a small increase of approximately 2% on the existing fixed fees and delayed the best value tendering process until 2010. The settlement included the publication of a revised route plan by the Legal Services Commission, attached for your information.

Integrated Social Welfare Law Contracts (ISWL)

The LSC's vision for the future includes the introduction of ISWL across the Country. The new approach is centred on two models, Community Legal Advice Centres (CLAC's) and Networks (CLAN's). Both models essentially will provide the same holistic services under one legal entity. Under the network model a number of agencies (private, community or voluntary agencies) are able to provide these services on a sub contractual basis working to one service specification. The lead agency will be responsible for monitoring their sub-contractors.

The LSC's aim is to procure approximately 30 centres/networks across London, where possible jointly commissioned with central and local government agencies. Each model will provide advice and representation in community care, debt, housing, welfare benefits, employment, family and any related public law and any other relevant services appropriate to the boroughs needs.

In addition to the advice and representation aspects of service delivery, models will be expected to deliver the following:-

1. Referrals by appointment only
2. Generalist services
3. Access for emergency cases
4. Alternative dispute resolution, mediation etc

Implementation of ISWL's across London commences in April 2010, however, the LSC has already started dialogue and received committee approval in Barking & Dagenham to jointly developing a service specification for advices services.

A freedom of information request submitted by the Law Society earlier this year highlighted a proposal to reduce funding in the south east and reallocated to other regions across England. Under these proposals London will see a reduction in funding; the move to re-distribute the funding will have a significant impact on Brent, a potential loss of approximately £300k per annum in legal aid. The shift in financial resources will impact the customers' ability to seek timely legal advice and or increase the pressure on the Councils resources. The failure to secure immediate legal advice and assistance may result in the loss of employment, benefits with knock on effects of housing.

In general terms, these changes will deliver some positive changes, for example, customer will no longer have to source and engage with a number of different providers to resolve their needs. However, it may also deliver some negative changes, i.e. possible reduction in funding in Brent and pan London, reduction of choice with only one main provider in Brent.

The wider LSC reforms will impact on other categories of law, for example, crime with some possible impact on civil liberties, due the to way that providers may need to operate in order to meet targets, there may be an urgent need for swift resolution of any given case. However, the criminal justice reforms are not specifically included within the scope of this review.

The Lead Member for Housing has suggested that this is an area in which Overview & Scrutiny may want to establish a special task group; particularly as there is a significant impact on providers in the borough and the many residents that use these services. A draft Terms of Reference is attached at Appendix A for consideration.



Law Society
Summary settlement (



LSC civil route map
100408.pdf

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July 2008

Overview & Scrutiny Sub-committee: Review of Legal Services Commission Changes to Legal Aid Funding

Terms of References

Background

The Legal Services Commission has introduced significant changes to the funding of Legal Aided work. A number of voluntary sector partners have raised concerns regarding the impact of these changes. Indeed some voluntary sector partners have significant concerns about the ongoing financial viability of their organisations.

Purpose

- To assess the likely impact of the changes introduced by the Legal Services Commission in the funding of Legal Aid, on the Borough.
- To report back findings to the Executive.

Outcome

- To influence London Councils to engage other authorities to conduct a similar review of local services and/or provide pan London lobbying support.
- To work closely with the LSC to negotiate/encourage an appropriate regional variation on the fixed fees.
- Determine wider impact, particularly on statutory services, i.e. Brent Housing Service

Method

- Examining available documentary evidence regarding the impact of these changes, to include the availability of resources within the borough (loss/increase in the number of practitioners), access to justice for customers particularly those with complex needs.
- Taking oral evidence from key witnesses.
- Liaise with local and national advice providers to collate and review the variances in the cost of providing advice compared with the charges recovered from the LSC i.e. Law Centres Federation, Citizens Advice.

Timescale

This review is expected to take six months to report and may require some officer support.