



The Law Society

**Summary of settlement between the Law Society,  
Ministry of Justice and Legal Services Commission**

2 April 2008

SUPPORTING  
solicitors

## The settlement

It is important to understand the limits of what could have been achieved from success in the litigation. A hearing date for our case had been fixed for late June 2008. Had we not reached a settlement, the LSC would have terminated contracts with a view to introducing new contracts in the autumn in which the graduated fee schemes were unchallengeable. This means that there would have been no prospect of returning to hourly rates. The profession would have been left with a historic dispute over whether they should have been paid on a different basis during this one year, and a prolonged period of disruption and uncertainty.

Council approved the deal subject to satisfactory resolution of a small number of outstanding issues. These matters have been resolved. In respect of the amnesty for unrecouped payments on account, we are satisfied that most legal aid providers will see real cash benefits, both in terms of not having money recouped and being saved the administrative burden of the process. We have retained our right to submit a complaint of maladministration to the ombudsman, in order to ensure that we are able to represent any of our members who have justified complaints that are not addressed by the new approach.

It has also now been agreed that the settlement is not conditional on there being no further challenge. In the event of a challenge covering the same issues as in our case, which is deemed serious by a jointly-instructed QC, the LSC may terminate contracts early, but the profession will retain the other benefits delivered by this settlement.

## Financial benefits

- A revised approach to unrecouped payments on account from more than six years ago – subject to cases involving dishonesty and / or greater than £20,000 on an individual case.
- An increase of 2% on all legal help fixed fees and underlying hourly rates from 01/07/08
- An increase of 2% in the hourly rates only for Level 2 Family Help lower
- Care level 2 fee increased from £347 to £405
- 5% increase in CLR fees and rates for mental health (whether paid as standard fee cases or exceptional claims), plus 2% for remote travel payments
- 5% increase in CLR fees and rates for asylum and immigration cases covered by the standard fee scheme (whether paid as standard fee cases or exceptional claims)
- New rules on Standard Monthly Payments so that changes will not happen so often, so unpredictably and with such large variations

## Stability measures

- A commitment by the LSC (subject to certain caveats, particularly relating to CLACs and CLANs) not to terminate the Unified Contract before it expires through effluxion of time in April 2010
- Deferment of the further changes to family fee schemes (including standard fees for private law family litigation, adjustments to the escape threshold for care standard fees, and a new advocacy fee scheme) which had been due this year, until April 2010
- Acceptance by the LSC that their right to amend contracts is significantly curtailed, and that therefore the historic approach of making significant structural changes during the life of a contract cannot continue
- The rule on remainder work will be changed so that firms are entitled to undertake it for two years after termination of their contract, so long as it has not been terminated for fault.

## Certainty

- The LSC is publishing a route map for civil and family legal aid showing the way forward until 2013, in which it commits not to introduce price competitive tendering for civil and family cases before 2013
- The LSC is announcing a delay of six months to the earliest possible date for the introduction of best value tendering for crime, and will publish a full route map in its response to the BVT consultation
- The LSC is publishing (once purdah for the local elections is out of the way) a list of the areas in which CLACs or CLANs may be introduced before April 2010. No CLACs or CLANs will be launched outside these areas before that date.

## Reviews

The following reviews are being set up, with terms of reference settled in the course of negotiations all reviews to be published.

- The setting up of a Consultative Group equivalent to the Criminal Contracts Consultative Group. An early task for this group will be a full review of the new fee structures.
- A joint review of peer review accreditation, the specialist quality mark and other quality assurance issues.
- A joint working group to address concerns about the contract compliance audit processes.
- A joint review of the immigration stage billing problem, with a report to be published by 30th June 2008.
- Law Society involvement in the evaluation of CLACs and CLANs, including our Head of Research to be on the advisory board