

Civil Bid Rounds for 2010 Contracts **Offline Response form**

A: Information about you

Please provide us with the following information so we can log your response and send you acknowledgement of our receipt of your response.

Your name: SHELTER THE NATIONAL CAMPAIGN FOR HOMELESS PEOPLE LIMITED

Your postal address:

Your postcode:

Your email address:

Your areas of interest:

If you specify your areas of interest below it will help us to target future consultations to you. *To select one or more of the options, double click on the appropriate box and select 'checked' as the default value.*

- | | |
|---|--|
| <input checked="" type="checkbox"/> Funding Code / Contract | <input type="checkbox"/> Consumer |
| <input type="checkbox"/> Amendments | <input type="checkbox"/> Education |
| <input checked="" type="checkbox"/> Quality | <input type="checkbox"/> Family – Mediation |
| <input type="checkbox"/> Magistrates' Court Work | <input type="checkbox"/> Family – Public Law |
| <input type="checkbox"/> Prison Law | <input type="checkbox"/> Immigration and Asylum |
| <input type="checkbox"/> Actions Against the Police | <input type="checkbox"/> Personal Injury |
| <input checked="" type="checkbox"/> Community Care | <input checked="" type="checkbox"/> Welfare Benefits |
| <input checked="" type="checkbox"/> Debt | |
| <input type="checkbox"/> Employment | |
| <input type="checkbox"/> Family – Private Law | |
| <input checked="" type="checkbox"/> Housing | |
| <input type="checkbox"/> Mental Health | |
| <input checked="" type="checkbox"/> Public Law | |
| <input checked="" type="checkbox"/> Organisational Transformation | |
| <input type="checkbox"/> Crown Court Work | |
| <input type="checkbox"/> Police Station Work | |
| <input type="checkbox"/> Very High Cost Crime Cases
(VHCCCs) | |
| <input type="checkbox"/> Clinical Negligence | |

Would you like us to automatically notify you of future consultations of interest?

- Yes
 No

The Legal Services Commission might like to contact you about other legal aid matters. Would you be happy for us to do this?

- Yes
 No

I am responding to this consultation as:

(Please select one option from the following list)

- Individual Legal Aid Practitioner – solicitor, adviser or mediator (not on behalf of my organisation)
- Solicitor, on behalf of my firm
- Not-for-Profit Provider, on behalf of my organisation
- Family Mediation Service (for profit or Not-for-Profit)
- Non-Legal Aid Contracted Provider
- Individual Barrister
- Barrister on behalf of chambers
- National Representative Body
- Regional or Local Provider Representative Body
- Client Representative Body
- Member of the Public
- Central Government
- Local Government
- Other Government
- Member of Parliament
- Other (please specify)

If you are responding on behalf of an organisation that holds an LSC contract, **please enter your LSC account number**

This is a response on behalf all of Shelter's 32 offices that hold LSC contracts. As Shelter is a national organisation it also has a 'national' account number

If you are a barrister, **please enter your LSC bar number**

B: Questions asked in the consultation paper

Section 1: Foreword

There were no questions contained within Section 1 of the consultation paper.

Section 2: Executive Summary

There were no questions contained within Section 2 of the consultation paper.

Section 3: Introduction

There were no questions contained within Section 3 of the consultation paper.

Section 4: Types of services we want to buy

Q1: Are there any areas of family work other than child abduction that should be procured separately?

- Yes
 No
 Don't Know

Please use this space if you wish to give any further information or explanation.

Shelter does not do family work and therefore does not have a view.

Q2: Are there any other areas within low volume categories that are so significantly distinct that it would be more appropriate to tender for this work separately from the rest of the category?

- Yes
 No
 Don't Know

Please use this space if you wish to give any further information or explanation.

Shelter does not do these areas of work but would like to make the point that many organizations e.g. Shelter's London legal team, Liberty , Public Law Project, CPAG, Howard League for Penal Reform; have matter start contracts but typically do very few legal help matters because most of their work is test case work through referrals run under full legal aid certificates.

For most organisations it is enough to be content with what is said about low volume categories at 4.16 (i.e. go to the Special Cases Unit and request a certificate).

However, housing, welfare benefits, debt and community care are not low volume categories, so in terms of what is proposed for 2010 those organizations:

- Any organization or office that does very few matter starts is unlikely to win a matter starts contract in a competitive tender;*

- If an office / organization does not have a matter starts contract they will not be able to do any full legal aid certificate work;

Shelter's view is that albeit we are in a high volume categories, the LSC should give contracts for full legal aid / certificates only – to enable the very specialist and high level organizations to be able to run test cases on a certificated basis even if that particular Shelter office does not win a contract to perform legal help work. If this is not permitted then the LSC will lose enormous experience at the top end of legal aid work, it would be a tragedy for clients who need that very specialist advice and advocacy.

Q3: Do you agree with the types of services we intend to procure in each category of law?

Please rate one or more of the following options.

	Family	Family mediation	Social welfare law	Mental health	Immigration and asylum	Low volume categories
Strongly agree	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Agree	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Agree with reservations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Neutral	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Disagree	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Strongly disagree	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If not, how should services be structured to ensure more integrated advice?

Please use the space below if you wish to answer this.

Housing, debt and welfare benefits

We welcome the proposals for SWL and do not object to housing, debt and welfare benefits being procured as a bundle. We are concerned about the implications of Housing and Family being procured as a bundle and the impact this will have on providers who do not provide family law. How many housing matters will be allocated to this bundle, and what impact will this have on the number of housing matters allocated in the housing debt and welfare benefits bundle? The proposal set out in paragraph 4.10 is sensible and shows that the LSC have listened to providers comments. The flexibility in allowing consortiums without formal merger will help to maintain good services where they already exist. Providers will be able to work together and compliment each other's strengths in order to provide excellent services to clients.

Community Care

The proposal to procure Community Care as a single subject is very welcome. It is also our experience that this area of law is often delivered without advice in other SWL categories.

The Consultation refers to buying community care and employment as categories on their own in the short term. What is meant by the short term? Will there be a phased

transition to all 5 categories being a bundle and what is the anticipated time frame for this?

Our biggest difficulty has been in recruitment of suitable community care advisers. In relation to in debt, welfare benefits and housing, the same staff can often deliver advice (or be easily trained up to deliver the advice) due to the synergies between those areas of law. Community care advisors however are usually specialist solely in that area of law; community care is often more technical than debt or welfare benefits law; and further this area of law can require more highly trained staff due to the fact of the need for representation. Nationwide there is a severe shortage of advisers in community care.

The LSC could assist as follows:

Allow a national training programme for community care advisers. This could work with a national provider or with large regional providers. The LSC could agree a phased introduction of the matters up to the full allocation at the end of an 18 month period, or sooner where possible. This would allow staff to be trained and acquire the necessary casework experience before taking on full responsibility for meeting contract targets.

Training bursaries would be an advantage in attracting organisations willing to invest in the training and support required.

Q4: Do you agree with the types of civil legal aid we will no longer procure?

Please rate one or more of the following options.

	Debt only	Welfare benefits only	Housing only	Family private: domestic abuse only	Family private: finance only	Domestic abuse and finance only	Family private: children and finance only	Mental health: detained clients only	Mental health: non-detained clients only	MHRT work only	Non-MHRT work only	Immigration Removal Centres only	Consumer (other than as stated)
Strongly agree	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Agree	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Agree with reservations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Neutral	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Disagree	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Strongly disagree	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If not, why?

Please use the space below if you wish to answer this.

In response to the LSC Strategy Shelter has pursued expansion into non housing areas of social welfare law in order to have a place in the future contracting world.

Q5: Is it reasonable that, in order to maintain integrated services, where contracts have been awarded on the basis of multiple categories (e.g. debt, housing and welfare benefits), work in all categories usually lapses where the minimum new matter start size per contract year has not been met?

- Yes
 No
 Don't Know

Please use this space if you wish to give any further information or explanation.

We can understand why the LSC may want to ensure that there are sufficient levels of advice being provided across each of the areas of law.

However, we would suggest an approach of an acceptable tolerance range above / below the minimum matter starts allocation. In our experience the inability to take-up matter starts is due to two main reasons:

- Lack of awareness in local communities of the availability of advice and lack of take-up despite there being clear evidence of need. We would welcome proactive LSC marketing of services.
- Gaps or delays in recruitment of staff. Staff are usually on one months notice period and recruitment takes longer than that. Given the low levels of funding in the sector, providers cannot over-staff their services.

Given the amount of investment that providers put into their staff and offices etc as well as marketing services and setting up suitable appointment / outreach locations it would not be in the clients interests as well as being economically punitive for the LSC to take away a generally well functioning contract from a provider simply because not all matter starts have been started in perhaps just one area of law. We also believe this is bad management of risk by the LSC in that it will drive out of the legal aid market a number of providers who do provide good services at adequate levels.

In the old GCC(NfP) Contract ie: the NfP 'hours' contract that existed prior to the Unified Contract, there was a tiered system along the lines that if 95% of contract hours were preformed there was no sanction, if 85% of contract hours were preformed providers could make representations to the LSC as to the reasons why. There is no such equivalent in the Unified Contract and we would recommend some kind of tolerance / buffer around the matter starts allocations particularly as providers or consortium will be providing more than one area of law.

An additional complication is that if there is a consortium (with each member having its own but linked contract schedule) providing, for example, debt, housing and welfare benefits, what would happen if one provider did not meet their matter start allocation? Would just that specific non-performing contract be terminated or reduced? Surely the LSC are not suggesting that the other providers who have provided good quality advice to the required volumes would lose their contracts? Would other consortia members be able to pick up these matters if they believed that they could deliver them?

Q6: Are the minimum new matter start sizes required set at the right level in each category?

Please rate one or more of the following options.

	Family	Social welfare law	Mental health	Immigration and asylum	Low volume categories
All are right	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Most are right	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Don't know	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Most are wrong	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
All are wrong	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

If not, why – for example, is there a case for letting lower new matter start sizes in rural areas?

Please use the space below if you wish to answer this.

The table in 4.25 does not say for what period of time the minimum legal help bid size is given (per month, for the 3 year contract or per annum?). The wording in paragraph 4.29 suggests that these would be the minimum allocations per annum and we have made that assumption in answering this question.

SWL: The minimums do appear to be feasible. It is important that providers are able to build up sufficient experience to offer people a good service. Minimum numbers help ensure this.

Low volume categories: see answer to Qu.2.

Q7: Is the minimum supervisor to caseworker ratio set at the correct level?

- Yes
 No
 Don't Know

Q7a: If not, are there, for example, some categories where processes are simpler and as such require less supervision?

	Family	Social welfare law	Mental health	Immigration and asylum	Low volume categories
Yes	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Don't Know	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please use this space if you wish to give any further information or explanation about questions 7 and 7a.

The ratio of 1:4 is inappropriate. We believe that (1:8) i.e. a minimum of 1 supervisor to 8 advisers is much more realistic and appropriate. Requiring a ratio of not less than 1:4 will significantly increase the cost of providing services; this ratio would be utterly unfeasible under current payment rates.

We have done our own calculations about what is realistic for supervisor ratios based upon the SQM requirements and supervisors requirement to undertake their own casework and keep up to date and in our view the ratio of 1:8 is the limit. In some of our services we have taken the decision to have ratios with fewer than 8 advisers being supervised but this should be left to providers to operate within a maximum 1:8 ratio and adjust according to their specific operational models and business plans. The LSC would be well protected at the 1:8 ratio as this is already the ratio that is possible under current SQM requirements.

The LSC also need to be aware that it is very difficult to recruit supervisor level staff (and growing our own takes time), we do not believe that there are even enough appropriately qualified people in the legal aid world to staff a 1:4 ratio.

The LSC are trying to impose the rules in both directions and create unworkable contracts. The approach of specifying the staffing ratio, combined with a fixed fee, is anti competitive. There would need to be an increased per matter rate to cover the additional costs of more supervisors if the very low ratio of 1:4 is imposed. What research has the LSC conducted into the supervisor ratios to suggest that a 1:4 is appropriate? How many agencies and what areas of law were assessed? How does this fit with the proposed best value tendering the LSC will pilot? The requirements of the contract are now so prescriptive – permanent office locations, staff ratios, matters per FTE there is very little scope to move. The only organisations that can compete on price will be those paying their staff very low salaries.

The LSC should either continue with a fixed fee but remove restrictions on how the service is delivered, or if it wants best value tendering, develop a detailed specification and a range of required outcome measures and then assess on quality and price.

Further, in the LSC's CLA tender documentation (Oct 2008) it was stated by the LSC that:

" CLA contracts will be awarded on the basis of a number of hours by category, not on the basis of number of advisers"... "How many advisers and supervisors you decide to use is entirely a matter for you, provided we are satisfied that your plans will enable you to comply with the requirements of the contract".

Therefore the LSC that has already recognized (a) the number of advisers is irrelevant; and (b) it is up to providers to decide their operating model and proportions of advisers and supervisors; and (c) there is no need for micro management of providers if the contract is met. There is no need for an adviser/supervisor ratio to be imposed and to do so would be completely inconsistent with current LSC procurement.

Q8: Are there any practical impacts on debt providers that will make the requirement to have an Approved Intermediary for Debt Relief Orders unachievable?

- Yes
 No
 Don't Know

Please use this space if you wish to give any further information or explanation.

We need information on how to become an Approved Intermediary for Debt Relief Orders. We have already contacted the Official Receivers Office on exactly this point but no information has been forthcoming and very little information is publicly available. It would be very helpful if the LSC could facilitate the process for providers holding debt contracts to apply for (and hopefully obtain) Approved Intermediary status. Based on the basic information we do possess regarding Approved Intermediary for Debt Relief Orders it does seem to be a reasonable requirement that holders of debt contracts are able to do this work.

Q9: Is Panel membership for advocates before the MHRT a reasonable requirement for Integrated Services A in high security hospitals?

- Yes
 No
 Don't Know

If not, what additional measures should we use to ensure appropriate expertise of MHRT work?

Please use the space below if you wish to answer this.

[This is not an area of law in which we advise.](#)

Q10: Do you agree that requiring immigration providers to have at least one Level 2 to every two Level 1 caseworkers employed will help ensure that providers are structured to represent clients through the appeal stages of their case?

- Strongly agree
 Agree
 Agree with reservations
 Neutral
 Disagree
 Strongly disagree

Please use this space if you wish to give any further information or explanation.

[This is not an area of law in which we advise.](#)

Q11: Is the Integrated Services A requirement to undertake Legal Representation in community care, housing, mental health and immigration and asylum the most suitable way to ensure that clients can access all levels of advice?

- Yes
 No
 Don't Know

If not, what would be a better approach?

Please use the space below if you wish to answer this.

We comment solely in relation to community care and housing.

We do not believe it is appropriate for us to have a solicitor in every office because:

- The funding scheme cannot sustain it;
- It is not good practice to have lone solicitor working;
- It is not necessary to have solicitors in every office in order to provide an end-to-end service;
- There are deserts for solicitors in these two areas of law. Recruitment has proved impossible in some parts of the country despite repeated attempts.
- Shelter's electronic case management system permits access to files wherever staff are based.

We are currently developing our strategy to ensure that we have solicitors teams based in every region and where possible sub region depending on demand from our services based locally. These arrangements mean that we can provide the necessary professional supervision and support and we can ensure all cases are covered appropriately in the event of sickness or leave.

We urge the LSC to accept regional and national methods of providing legal representation when it is in fact with the same provider albeit the solicitor may physically sit in a different office.

Q12: Do you agree that specifying referral to family support services for family contracts is the best way of addressing the support needs of family clients?

- Strongly agree
 Agree
 Agree with reservations
 Neutral
 Disagree
 Strongly disagree

Please use this space if you wish to give any further information or explanation.
This is not an area of law in which we advise.

Q13: Other than independent advocacy services, are there any other types of support service that the LSC can more closely specify that mental health providers should have links with?

- Yes
- No
- Don't Know

If so, what are these?

Please use the space below if you wish to answer this.

[This is not an area of law in which we advise.](#)

Section 5: Where services will be delivered

Q14: Given the limitations on competition for mental health services, is the LSC right to treat high security hospitals as separate procurement areas?

- Yes
- No
- Don't Know

Please use this space if you wish to give any further information or explanation.

[This is not an area of law in which we advise.](#)

Q15: Do you agree with the approach in immigration and asylum to identifying areas of high demand (access points) and letting matter starts on this basis?

- Strongly agree
- Agree
- Agree with reservations
- Neutral
- Disagree
- Strongly disagree

Please use this space if you wish to give any further information or explanation.

[This is not an area of law in which we advise.](#)

Q16: Do you agree that a different approach to setting access points for London in immigration and asylum is necessary?

- Strongly agree
- Agree
- Agree with reservations
- Neutral
- Disagree

Strongly disagree

Please use this space if you wish to give any further information or explanation.
[This is not an area of law in which we advise.](#)

Q17: Do you foresee any issues with the proposed definition of permanent and part time presence?

- Yes
 No
 Don't Know

Please use this space if you wish to give any further information or explanation.

The requirements of the 2008 LSC Civil Bid round were to have an office in the procurement area and then to further deliver the advice from a number of designated locations. The 2010 contracts look set to have a similar requirement. This means that in any one procurement area an organisation may need to have a permanent office AND a range of outreach locations. There is no need to have the two categories of 'permanent' and 'part time' presence. What the LSC seem to want is quite simply locations where advice can be delivered that:

- Complies with quality assurance standards and health and safety requirements;
- Caters for client needs;
- Suitable for face-to-face advice;
- Telephone numbers accessible Monday-Friday;
- Accessible Monday-Friday for clients to go in face-to-face to make appointments or for emergencies?

The LSC could label this requirement simply as 'locations complying with the above conditions' and get rid of the distinction between part time and permanent offices as it adds nothing. All of the above could be provided by way of (a) permanent office locations; and/or (b) arrangements with other organisations to use their reception / premises as necessary – this in fact may well be the best scenario in a consortium. In relation to possible consortia, it is unclear how this will work– do all partners require a permanent presence? If yes, that would involve duplication, unnecessary expense and probably confusion for service users. Could one partner have the permanent office and other providers have the semi permanent (if the LSC insist on having those distinctions)?

There should be no need whatsoever for providers to go through the expense and risk of setting up part time offices when they could come to arrangements with other organisations who already have offices in the desired locations. Setting up part time offices is uneconomic, inefficient, not necessary for the provision of excellent face-to-face advice, and not feasible under current payment rates.

Even very basic telephony systems allow for diverting of calls to any location. A 'service' could have a telephone number as opposed to each office having a telephone number. Calls could route through to wherever there were the staff on any

particular day to answer the calls. This is in fact what the LSC funded CLA line does and the same principles can be used for these types of services.

Office locations are expensive to maintain and there would need to be a guaranteed minimum contract size to warrant the expense of setting up a separate office location. Small contracts would not be able to financially support an office presence.

Q18: Does the type of presence proposed in a procurement area for family and social welfare law advice achieve the right balance of ensuring client access to service whilst being practical for providers?

Please rate one or more of the following options.

	Family	Social welfare law
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Don't Know	<input type="checkbox"/>	<input type="checkbox"/>

Please use this space if you wish to give any further information or explanation.

Exactly the same comments as set out in question 17 above. In addition, it is important to consider what the client is looking for when making contact with an advice-giving agency. Feedback from our clients suggests what they want is:

- An easy to access telephone number – one per procurement area would make sense.
- An advice surgery that is easy to access (this is in keeping with the LSC proposal that advice should be available within 45 minutes on public transport);
- An easy way to follow up the advice.

All of this is best done via a series of outreach locations with a single point of entry i.e. a procurement area wide telephone number.

We are concerned about the impact of advice provision in a rural area where it is costlier to provide a service with a full range of outreach.

Q19: Where a mental health provider has no permanent presence in a procurement area does an insistence on fee earners being based in that area ensure good access for both detained clients and those in the community?

	Detained clients	Clients in the community
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>
Don't Know	<input type="checkbox"/>	<input type="checkbox"/>

If not, what should we specify in addition?

This is not an area of law in which we advise.

Q20: Is requiring a permanent presence in at least one immigration and asylum access point, and a permanent or part time presence in each access point bid for, the best way to ensure access across procurement areas (Home Office regions) whilst maintaining a level of flexibility for providers?

- Yes
 No
 Don't Know

Please use this space if you wish to give any further information or explanation.
[This is not an area of law in which we advise.](#)

Q21: In the award of UASC work, do you agree that we should favour providers with the shortest travel time to the Home Office Interview in the specialist local authority for which they are bidding?

- Strongly agree
 Agree
 Agree with reservations
 Neutral
 Disagree
 Strongly disagree

If not, why not?

Please use the space below if you wish to answer this.
[This is not an area of law in which we advise.](#)

Q22: Where a low volume category provider, other than in clinical negligence and personal injury, has no office in an area, what requirements should be placed on the provider in terms of facilities offered to clients and the marketing of their service?

[As per our answer to question 17, quite simply locations where advice is to be delivered should:](#)

- [Comply with quality assurance standards and health and safety requirements;](#)
- [Cater for client needs;](#)
- [Be suitable for face-to-face advice;](#)
- [Telephone numbers accessible Monday-Friday;](#)

[If a provider could offer video conferencing / web cam then this would be desirable and very cost effective. If these sorts of facilities were set up at perhaps local Job Centres, DWP, local authority offices etc it may even be possible for staff employed at those locations to assist in getting legal help forms filled in and proof of means seen.](#)

We would recommend a relaxing of the postal application and attendance on client's behalf rules because:-

- In our experience people fail to seek advice if the journey time is too long, too difficult or too expensive for them. If they do manage to make it into an office / outreach they often do not have all the required paperwork with them for assessment of legal help eligibility or for investigating their possible legal issues.
- Under the Unified Contract matter starts rules it may be the case that the client is seen face-to-face and legal help forms signed-up and proof of means seen (for the correct computation period) and one matter start opened to deal with one legal issue or to investigate what legal issues may exist. If however further matter starts (in the same or different categories of law) are required after that initial face-to-face meeting, under the Unified Contract rules you have to ask the client to come back to the office to sign up legal help forms per matter starts and to see proof of income (for perhaps a slightly different computation period depending on how much time has passed since the first meeting). This is not providing good customer service. While we recognise the fundamental difference between a face-to-face service and a telephone based service, requiring clients to attend offices for purely bureaucratic reasons, rather than to improve the quality of the service and advice they receive is perverse. We know that for vulnerable and chaotic clients the more hurdles that are placed in front of them the more likely they are to drift away from the service and not get the advice they need. Similarly clients who find travelling difficult (due to cost, time, small children or disability) must not be dissuaded from receiving the service they need because of the requirement for forms to be filled in. The current arrangements are a nonsense and completely unnecessary. It should be possible to get postal applications / attendance on client's behalf without having to satisfy the very restrictive 'good reason' requirement in the Unified Contract. This current rule stops us opening matters and giving advice to existing clients in situations where we identify over time more than one legal problem.#
- Further, in the LSC's CLA tender documentation (Oct 2008) it was stated by the LSC that:

" independent research has shown us that really good advice and casework by telephone can be more efficient than and just as effective as traditional face-to-face advice. More importantly, some people in socially excluded groups find telephone advice easier and less intimidating"

Therefore the LSC that has already recognized that telephone advice is just as effective as face-to-face advice. There is no need for rules to exist about having to see a client face-to-face for the purposes of form filling when the advice and casework can be done just as efficiently via post or other means. To continue to insist on this requirement would be completely inconsistent with current LSC procurement and flies in the face of the research that the LSC rely upon.

Marketing of services should not fall solely to provider and the LSC should take a lead in this, unless of course the LSC pay providers to do proper marketing. Marketing is vital to ensure awareness of the service but it is very time consuming and under current payment rates it is uneconomic for providers to spend time on marketing although awareness of services is clearly vital to their success.

Q22a: Is it appropriate to use video conferencing to provide face-to-face advice to clients where there is no local “access point”?

- Yes
 No
 Don't Know

Please use this space if you wish to give any further information or explanation.

[Yes, see above previous answers.](#)

Q23: In immigration and asylum should the restrictions around undertaking the majority of work for clients in the procurement area extend to restricting providers in Wales from accessing clients in the South West and vice versa considering that the Home Office operates only one region covering both areas?

- Yes
 No
 Don't Know

Please use this space if you wish to give any further information or explanation.

[This is not an area of law in which we advise.](#)

Q24: Do you believe that mental health and immigration and asylum providers should be restricted to undertaking most of their work for clients from within the procurement area(s) bid for?

	Mental health	Immigration and asylum
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>
Don't Know	<input type="checkbox"/>	<input type="checkbox"/>

Please use this space if you wish to give any further information or explanation.

[This is not an area of law in which we advise.](#)

Q25: Do you agree with our proposed approach to setting certificated matter starts in family?

- Strongly agree
 Agree
 Agree with reservations
 Neutral
 Disagree
 Strongly disagree

Please use this space if you wish to give any further information or explanation.
This is not an area of law in which we advise.

Q26: Bearing in mind the limits on the legal aid budget, is the initial 30% ceiling the most suitable way to calculate HPCDS budget for 2010 onwards?

- Yes
 No
 Don't Know

Please use this space if you wish to give any further information or explanation.

This section is rather unclear. Are you saying that a budget is worked out as:

- a. an indicative volume of clients multiplied by the fee per person seen = £X per annum. If a provider sees more people they will get paid for it up to 130% of £X ie: £X plus 30% of X ; or
- b. the court may list Y number of possession cases per annum. It is known that not all defendants turn up to the hearings and that some turn up but do not want advice under the scheme. Accordingly the limit on providers is 30% of Y.

We can see no problem with method (a) above as a means of the LSC controlling the budget.

If the proposal is as per (b) above then there are problems as follows:

- Court lists vary massively depending on the court staff putting them together. In one court 70 cases may be unrealistically listed for a possession day, while at another County Court just a few miles away court staff may be more experienced and list 20 cases – all of which will be seen.
- Some courts are better at promoting the court possession scheme by way of sending information to defendants when details of the court date is sent out. This increases defendant turn-up rates.
- Economic conditions outside of our control will affect the number of possession claims being brought.

In short, court lists are far from scientific, have local variations and are not a good indicator of how many defendants will turn up and how many cases will be heard.

The main consideration needed here is to have a flexible funding model. The level of need for court desk work is very likely to increase over the next few years. There are no clear figures available on numbers of clients and level of complexity of cases, although data from the previous recession could be used. The LSC should not restrict itself to a funding model that is not able to respond to fluctuating or increasing client need.

Q27: Do you agree that in mental health, immigration and asylum and low volume categories we should move towards distributing new matter starts more closely to where clients are located?

Please rate one or more of the following options.

	Mental health	Immigration and asylum	Low volume categories
Strongly agree	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Agree	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Agree with reservations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Neutral	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Disagree	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Strongly disagree	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please use this space if you wish to give any further information or explanation.
[This is not an area of law in which we advise.](#)

Q28: Do you agree with the proposed approach of holding back 10% of asylum new matter starts within London and the South East to facilitate the changing dispersal patterns?

- Strongly agree
- Agree
- Agree with reservations
- Neutral
- Disagree
- Strongly disagree

Please use this space if you wish to give any further information or explanation.
[This is not an area of law in which we advise.](#)

Section 6: How we will procure services

Q29: Do you agree that asylum rotas should be open only to providers who have been awarded work in the access point where the rota operates?

- Strongly agree
- Agree
- Agree with reservations
- Neutral
- Disagree
- Strongly disagree

If not, how can we ensure that asylum clients do not have to travel long distances based on the rota?

Please use the space below if you wish to answer this.
[This is not an area of law in which we advise.](#)

Q30: Do you believe that a single adviser should be required to attend on the client throughout the life of the case, and that the best way to achieve this is requiring a single adviser to own UASC cases from start to finish?

- Strongly agree
- Agree
- Agree with reservations
- Neutral
- Disagree
- Strongly disagree

Please use this space if you wish to give any further information or explanation.

[In connection with unaccompanied minor asylum seekers, it seems the LSC want these dealt with as immigration cases and they want the same person dealing with the case. What often happens is that an immigration lawyer deals with the asylum claim, the local authority social services sometimes carry out an age assessment and housing lawyers then deal with the dispute over the lawfulness of the age assessment.](#)

[This work raises public law issues similar to those that arise where you challenge a homelessness department's assessment of vulnerability or age - circumstances which could arise in housing casework.](#)

[Accordingly we believe there are good reasons for allowing housing practitioners to deal with these sorts of cases.](#)

Q31: Do you agree that performing UASC work should be limited to advisers accredited to at least Level 2 of the Immigration and Asylum Accreditation Scheme?

- Strongly agree
- Agree
- Agree with reservations
- Neutral
- Disagree
- Strongly disagree

Please use this space if you wish to give any further information or explanation.
[This is not an area of law in which we advise.](#)

Q32: Do you agree with the mandatory requirement that all advisers who provide advice to UASC have obtained disclosure checks from the Criminal Records Bureau as a pre-requisite?

- Strongly agree
- Agree
- Agree with reservations
- Neutral
- Disagree
- Strongly disagree

Q32a: If so, should this be at the enhanced level?

- Yes
- No
- Don't Know

Please use this space if you wish to give any further information or explanation in relation to question 32 or 32a.

[This is not an area of law in which we advise.](#)

Q33: Should there be an ongoing requirement by providers to ensure others who engage directly with UASC clients continue to pass Criminal Records Bureau checks?

- Yes
- No
- Don't Know

Please use this space if you wish to give any further information or explanation

[This is not an area of law in which we advise.](#)

Q34: Do you agree that a minimum of three years of experience of acting as a supervisor in the immigration category is the right measure of a higher level of supervision for UASC clients?

- Strongly agree
- Agree
- Agree with reservations
- Neutral
- Disagree
- Strongly disagree

[This is not an area of law in which we advise.](#)

Q34a: Should supervision experience specifically relating to this client group be taken into account?

- Yes
 No
 Don't Know

Please use this space if you wish to give any further information or explanation in relation to question 34 or 34a.

[This is not an area of law in which we advise.](#)

Q35: Do you agree that in immigration and asylum, asylum should remain our priority and the marking of bids reflect this?

- Strongly agree
 Agree
 Agree with reservations
 Neutral
 Disagree
 Strongly disagree

[This is not an area of law in which we advise.](#)

Q35a: Is this the correct approach for the South East also, which is not a Home Office asylum dispersal area?

- Yes
 No
 Don't Know

Please use this space if you wish to give any further information or explanation in relation to question 35 or 35a.

[This is not an area of law in which we advise.](#)

Q36: Do you agree that the LSC needs to guard against bids to deliver services that will not have the capacity to do the work bid for?

- Strongly agree
 Agree
 Agree with reservations
 Neutral
 Disagree
 Strongly disagree

Q36a: Do you think applying a maximum number of matter starts bid per FTE will assist in that?

- Yes
 No
 Don't Know

Please use this space if you wish to give any further information or explanation in relation to question 36 or 36a.

We disagree with setting maximum numbers of matter starts per FTE because:

TYPES OF CASES VARY:-

- Depending on the types of problems that clients have and the other sources of advice locally there may be offices that seem to get high numbers of shorter quicker cases; or alternatively there are offices that typically receive longer and less numerous matters.

STAFFING AND RECRUITMENT:-

- Providers could vary their FTE at any time in any event and deliver with less or more staff;
- Abilities and experience of staff varies massively and some are capable of many more matter starts;
- The ability to perform a contract depends more upon the ability to recruit suitable staff, once staff are in place there should be no limit on how much work they do – that is down to local management and internal policies and procedures of each provider.
- If the LSC procure bundles of SWL eg: the housing, debt and welfare benefits bundle, there is the possibility (if the LSC are going to be restrictive on the number of matters an adviser can handle) that a client presents with multiple problems across areas of law, there could be difficulties in finding a single adviser in the service with sufficient remaining matters (in the various areas of law necessary) to deal with the client's entire range of problems.

FINANCE IMPLICATIONS:-

- Any provider will need to demonstrate how they will deliver the service. The LSC can judge if this seems deliverable and effective without imposing rules. The size and scope of the agency will determine how they can best deliver the service and achieve the number of matters.
- The levels proposed are in some cases less than the levels that are required by current FTE to maintain the levels of income that were paid under the GCC(NfP) Contract. This is a reduction in income by the back door, if maximums are set then the fixed fee per case would need to increase as otherwise the contracts would be uneconomic and we could not pay staff if they are unable to bring in the income due to this upper limit.

- What happens should an adviser deliver their full 250 matters by month 9 of the contract? Also consider, if an adviser with ability to advise in more than one area of law, has used up the matters in some areas of law only – it creates a situation that although the bundle of law has been procured by the LSC only areas of law with remaining matters can be advised upon. It presupposes that clients present with an even spread of multiple problems across multiple areas of law.
- This proposal is anti competitive and does not give the necessary flexibility (see above re: client problems not being evenly distributed etc). If agencies do not deliver the contract then either reduce their number of matters or impose contract sanctions, there no need to impose restrictions on all providers.

Q37: Do you agree with out proposed approach to allocating new matter starts for mental health services?

- Strongly agree
- Agree
- Agree with reservations
- Neutral
- Disagree
- Strongly disagree

If not, what alternative approaches would be preferable?

This is not an area of law in which we advise.

Q38: Do you think the proposed selection criteria for each category are the best way to differentiate between bids?

	Family	Social welfare law	Mental health	Immigration and asylum	Low volume categories
Yes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Don't Know	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please use this space if you wish to give any further information or explanation

In relation to SWL the two selection criteria are preference given to organisations providing:

- (a) a higher number of SWL categories; and
- (b) a higher supervisor to fee earner ratio.

We do not believe that either are very good for the purposes of differentiating bids.

Firstly, organisations may provide more areas of SWL but not with very good quality, or it may be tokenistic.

Secondly, there may be very good reasons for a lower supervisor to fee earner ratio as set out in our answer to question 7.

In our opinion a better way to differentiate would be on:

- quality of advice measures – already included in Annex A: Civil Specific Criteria;
- practicalities of provision of the service within the procurement area.

Preference should also be given to agencies who achieve a Level 1 or 2 in the Peer Review. This is a good way of encouraging and rewarding quality and provides an incentive for all providers to improve.

Q39: Do you agree with the proposed selection criteria for distinguishing between mediation bids?

- Strongly agree
- Agree
- Agree with reservations
- Neutral
- Disagree
- Strongly disagree

This is not an area of law in which we advise.

Q39a: If not, would another measure, such as the number of outreach locations or the ratio of mediators to cases, work better?

- Yes
- No
- Don't Know

Please use this space if you wish to give any further information or explanation in relation to question 39 or 39a.

This is not an area of law in which we advise.

Section 7: Changes to the scope of funding

Q40: Do you agree with the proposal to remove experts' cancellation and administration fees from the scope of legal aid funding in all civil cases and to cap rates for experts' travel and waiting time?

	Cancellation fees	Administration fees	Travel and waiting fees
Strongly agree	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Agree	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Agree with reservations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Neutral	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Disagree	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Strongly disagree	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Please use this space if you wish to give any further information or explanation

No. There needs to be equality of arms between legally aided and non legally aided clients. Legal aid lawyers often at short notice need good medical or surveyor evidence. Already many experts have stopped doing legal aid work. In the short term such measures are likely to inhibit the instruction of particular experts. It will add some costs as lawyers try to find and negotiate terms acceptable to the LSC with other experts. If lawyers cannot instruct the best experts then this will be counter productive. It is absurd for the commission to be happy to pay a high hourly rate but for an expert not to be instructed because he insists on a cancellation fee in the event of a hearing not proceeding. That is probably going to be counter productive.

Cancellation fees should be chargeable if outside the expert's control, since situations do arise where events overtake and an appointment has to be cancelled, or vulnerable or chaotic clients forget appointments, but the expert has made time and turned away other work to take the appointment.

Ultimately, surveyors and medical experts in the real commercial world do charge for their time and we think they are entitled to do so. If there is a reduction in the fees they can take in one way all that will happen is that hourly rates will increase to compensate.

A case which wins and where therefore costs are generally recovered cost the LSC a lot less than one which loses. We would like to see lawyers being able to instruct the most appropriate expert and believe the current system, with its provision for advance approval of fees where there might be doubt or uncertainty as to whether those fees will be met on detailed assessment, is adequate in terms of cost control.

The real issue with experts, which the LSC has regrettably failed to grapple with once again, is the hourly rates charged for their work – rates which can reach or even exceed £200 per hour.

Q41: Do you agree that change of name work should be made available only by telephone?

- Strongly agree
- Agree
- Agree with reservations
- Neutral
- Disagree
- Strongly disagree

Please use this space if you wish to give any further information or explanation
[This is not an area of law in which we advise.](#)

Section 8: Other contract changes

Q42: Section 8 sets out our key proposals for changes to the Standard Terms for the Civil Contract 2010 [and the Crime Contract 2010]. Do you think we should make any other changes to the current Unified Contract (Crime and Civil) Standard Terms?

- Yes – major revisions
 Yes – minor revisions
 No
 Don't Know

Please use this space if you wish to give any further information or explanation

There is very little to comment on re standard terms - as this was either raised in last round of negotiations or raised by Law Society in the Judicial Review proceedings.

A couple of points on content:

There is still mention of preferred supplier status throughout - this needs to be amended.

There are significant requirements in connection with partnerships and LLPs etc, these should be removed. There also needs to be some clarity on requirements for consortia etc - in section 25 mainly, but also 2(6).

Specific Points:

11(7) we fundamentally disagree with minimum and maximum case targets for licensed work. It is difficult to predict how many cases will progress to licensed work. If there is a minimum and maximum the banding needs to be very wide.

11A (2) - amendments to office schedule. Providers should have longer than 14 days to make representations as to why LSC are making an amendment to contract schedule numbers of matters. We had asked for 28 days in previous consultations and still believe 28 days is a reasonable period.

19(7 and 8). It is virtually impossible to enforce time recording on third parties. This should be rewritten as a 'should' rather than a 'must'.

25(10) Professional Disciplinary Proceedings. We would like clarity on this please. Does the requirement to inform the LSC only apply to disciplinary proceedings taken through Law Society, Lexcel, bar council etc?

Q43: Do you agree with the consortia arrangements we propose?

- Strongly agree
 Agree
 Agree with reservations
 Neutral
 Disagree

Strongly disagree

Are there any other categories of law, e.g. family or immigration, where we should allow consortia?

We only advise in SWL and welcome the LSC in moving from their original position (requiring single legal entities) to permitting consortia. However, the detail has not yet been provided and we have many questions including the impact on the contract for consortia members if one provider defaults.

See also Q 17,18 and 22 relating to clarity on office locations – can we have one office location per consortia?

Q44: Do you agree that these proposals allowing providers to apply for extra new matter starts without going through a bid round gives a reasonable amount of flexibility for providers while maintaining the principle of open competition for new work?

Strongly agree

Agree

Agree with reservations

Neutral

Disagree

Strongly disagree

Please use this space if you wish to give any further information or explanation

A degree of flexibility without full tender rounds is sensible, in some locations we have already found that we are using up our original matter start allocation faster than expected, an additional 10% as per the current arrangements (not 20%) is very sensible – not too little nor too much without a tender round.

In SWL there is an impetus for providers to increase the number of categories of law in which they give advice, would the LSC allow the extra 10% to be for matter starts in another SWL to what may already be contracted for? This would enable providers to start to build up expertise in that area of law in a manageable way.

For the last two years and in response to the LSC's strategy, Shelter has already begun to expand into debt; welfare benefits and community care law. It is our intention to continue to grow this expertise and we are going to train existing staff in new areas of law. Once trained and properly supervised, we will permit staff to start taking on cases in those areas of law under non-LSC funding streams. It would be ideal if small amounts of matter starts in additional areas of law were available on this extra 10% basis to permit the build up of expertise on matters under the LSC rules and funding.

The proposal for 20% is resisted because:

- If providers do not win their requested allocation in the first bid round it stymies development for those providers wishing to expand and grow their services.

- How will this work for consortia bids – do all agencies need to agree to a 20% increase?
- How could providers deliver a 20% increase if the LSC want a FTE per 250 matters? If there is no flexibility allowed in delivery how can providers recruit a 0.2 of a post?
- Will there be a bar on growth of contracts over a certain level of matters? E.g. in a county procurement area X Provider wins 500 matters on their own, and Y Provider wins 20,000, how can the 20% increase be equitable?

Our preferred route is for all bid rounds to have a section like the CLA tender – ie: bidders have to demonstrate how they will deliver the number of NMS they are bidding for (so removes all the rules imposes above) and then how they can demonstrate that they can deliver up to an increase of 20% on the contract. Providers need to show how they intend to do this and then the contract can be awarded with the option to increase. Agencies can decide whether to bid for the increase allocation or not. This would be a far more transparent process with the rules known up-front and providers tested on their ability for an extra 20% up-front.

Q45: Do you agree that contractual KPIs focusing on delivery of quality of work, value for money and access to clients are appropriate?

	Quality of work	Value for money	Access to clients
Strongly agree	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Agree	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Agree with reservations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Neutral	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Disagree	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Strongly disagree	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Please use this space if you wish to give any further information or explanation
We disagree simply because of the unnecessary extra burden that would be placed on providers. There are already 5 KPIs, every time there are new rules or requirements there is an increase in cost in administration to the provider in collecting and monitoring the items. Already quality is covered by peer review and SQM requirements. Value for money is assessed at tender stage together with the providers plans for access to clients.

Adding these as KPIs would be duplication, unnecessary and increase administrative costs on providers.

Q46: Would fixed payments based at fixed stages of a certificated case give providers better certainty of cashflow?

- Yes
- No
- Don't Know

We are concerned that any movement to payments at fixed stages in a case could distort the legal process. Potentially suppliers will react in the way that produces the best cash flow and this could lead to steps being taken which might not quite be appropriate. Payments on account should be tailored to the specifics of the individual case as currently, otherwise the longer and more complex cases would be underpaid and the shorter and more simple cases would be overpaid, penalising, in cashflow terms, providers that are more specialist and take on the more difficult cases.

Certificated cases vary greatly in length and cost, and to pay average costs would therefore either not reflect accurately likely costs, or there would have to be a huge range of averages for different types of cases. There is a real risk of a serious impact on cashflow and therefore viability.

The problem with this proposal is that it removes a significant tool available to suppliers to manage cash flow and generate income that relates to ongoing work in progress. Therefore the proposal is counter-productive if it seeks to assist cashflow - it will have the opposite effect, and in that it detaches payment from conduct of cases, risks creating perverse incentives that distort proper case preparation. A better way forward would be to leave the system as it is now, but restore the initial payment at the start of the case, perhaps at a higher level.

Q46a: Would a simpler process like this reduce providers' overall administrative costs on a case?

- Yes
 No
 Don't Know

The existing process is simple. The commission's proposed system is still going to require a claim to be made and a certification as to the stage.

Fixed amounts would have no impact on administrative costs – the value of a bill has little impact on the costs of processing it. Fixed stages would reduce administrative costs, if payments were automatic – but automatic payments would not be possible unless amounts were fixed and we do not support that proposal.

Q46b: Would there be any disadvantages?

- Yes – major disadvantages
 Yes – minor disadvantages
 No
 Don't Know

The disadvantages are that :

1. fixed amounts risk serious cash flow impact, especially if a supplier's costs profile does not reflect the average of all suppliers.
2. payment will be based on notional rather than actual cost;

3. there is a likelihood the litigation process will become driven by payment stages which may not be in the LSC's or the client's best interests;
4. a great deal of time and energy will need to be spent by fee earners working out for each sort of case they are dealing with when they have reached an appropriate stage to make a claim for a payment on account It is far easier to simply rely on a diary.

Please use this space if you wish to give any further information or explanation in response to Q 46, 46a and 46b.

With reference to the 120% limit proposed in 8.23; if cases take a long time or if an organisation is expanding its licensed work, there is a risk that this figure is too low.

Q47: What categories of law would be appropriate for a revised payment on account system?

(Please select one or more of the following).

- Family
- Social welfare law
- Mental health
- Immigration and asylum
- Low volume categories
- None

Please use this space if you wish to give any further information or explanation

None for the reasons set out above.

If, however, it was introduced for housing we would want to limit the scheme to housing disrepair though we do not think it would be sensible to have parallel schemes some time-based and some stage-based in operation.

Q48: Should we limit the standard payments on account to 75% of average costs, in order to incentivise providers to submit final bills?

- Yes
- No
- Don't Know

For the reasons given above, payments on account should be based on the case, not an average of suppliers. The LSC should not penalise the cashflow of suppliers who are meeting their obligations in order to control those who are not. Failure to submit bills in good time is currently a breach of contract, and sanctions are available for breach – the LSC should be looking to use existing sanctions rather than penalising responsible suppliers.

Q48a: If we are to pay more, say 100%, what alternative ways can we incentivise bill submission?

Late submission is a contract breach and repeated breach can lead to contract sanctions – if the LSC enforce those provisions, then that deals with the problem. If a final bill or discharge is not submitted within a reasonable time (based on a multiple of average case length?), the LSC could make enquiries of the supplier and where no satisfactory response is received recoup the payments on account.

Q49: Do you have any other suggestions for how we could better align payments to work accrued on civil certificated cases?

As we have stated in general terms in our answer to Q46, our experience is that generally a lot of work has to be done once the certificate has been granted. The abolition of the initial payment on the granting of a certificate was therefore in our view wrong. An initial more substantial payment combined with the ability to make claims for payment on account after the first 3 months and thereafter at 6 monthly intervals (i.e. the present scheme) better aligns payment to actual work, particularly given the gap which always arises between making a claim and receiving payment.

Initial Impact Assessment

Q50 Do you consider that the impacts on experts are justifiable in ensuring sustainable access to legal services for clients?

- Yes
 No
 Don't Know

Please use this space if you wish to give any further information or explanation

Q51: Do you have any comments on any prospective impacts of these proposals on clients or providers?

Previously, we had been concerned that the requirement for single legal entities would have resulted in fewer advice providers, a 'one size fits all', a loss of well established specialists and advice deserts – this concern appears to have been alleviated by the relaxation for SWL providers permitting consortia.

We have made comments above in relation to specific proposals; there will be an impact on providers and clients if some of the exact proposals are carried through. Please see our other answers in relation to the detail.

On some items consultation papers will follow and it is obviously impossible to comment until we have seen the detail in those subsequent consultation papers.

Q52: Do you have any comments on any prospective impacts on clients or providers resulting from the introduction of a tolerance bar in actions against the police etc, education and public law?

No comment – we do not advise in these areas of law.

Q53: Do you have any comments on any prospective impacts on providers resulting from the introduction of a limit on the amount of payments on account that organisations may have?

See answers above – there is potential for significant cash flow implications disproportionate to the aims

Q54: Do you think there will be an impact on clients and providers on the basis of sexual orientation or religion or belief?

	Sexual orientation	Religion	Belief
Large positive impact	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Small positive impact	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
No impact	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Don't Know	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Small negative impact	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Large negative impact	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please use this space if you wish to give any further information or explanation
We have not carried out any analysis on this point. The fact that the LSC will try to pace the changes so that provision is continued in a sensible manner would seem to minimise the effect of the changes on all clients – not just those aspects concerning Sexual orientation, religion or belief.

Q55: Do you have any comments on the prospective impacts of these proposals on clients and providers on the basis of ethnicity, gender, age or disability?

See answer for question 54.

Q56: Do you have any comments on any prospective impacts of these proposals on small firms?

We have not considered this as we are a large national charity – although some of our offices are small they do have the benefit of a national infrastructure.

Q57: Do you consider there to be any adverse impacts on clients or providers in rural communities in the proposals outlined in the consultation paper?

- Yes – large impact
- Yes – small impact

- No impact
 Don't Know

Is there anything more that you suggest the LSC does to take account of this group?

There is nothing in this consultation paper that appears to significantly affect clients in rural areas more than elsewhere. We have however consistently maintained that the fixed fee regime disadvantages rural areas as travel costs (either by clients to our offices or by our staff to outreach locations) is not paid for on top of the fixed fee. Shelter has in fact stopped going to some outreaches in rural areas because it is uneconomic under the fixed fee regime, further we are aware that no other provider has filled that gap – in short clients who were getting advice provision are no longer getting it.

The requirement to have a permanent or semi permanent presence will have an impact on the financial viability of providing contracts in rural areas. There needs to be a much greater degree of flexibility in how services are provided so that they meet the needs of clients.

The consultation is prescriptive in its delivery model and presupposes advice agencies / solicitor firms that are not part of a national organisation. In any forward thinking business there should be scope for different models of delivery and for providers to be flexible in how they meet the needs of clients (and demonstrate that to the LSC). Shelter is a national provider and is therefore able to offer national, regional and sub-regional delivery models that are not contemplated within the strict parameters of this consultation.

C: Additional questions

General comments

Do you have any additional comments that are not covered in the questions asked in the consultation? If so, please enter any additional comments in the space below.

We have a number of concerns about the strategic direction outlined in this consultation document. These can be summarised as follows;

Move towards micro-management and unclear strategic approach to commissioning

We believe that the LSC appears to be moving towards more and more detailed micro management of the contracts which contradicts what has been said in previous strategy documents. We suggest that if you are letting fixed fee contracts you should specify outcomes and quality measures but leave providers to design their own operating models. Alternatively you should specify the detailed operation of the service and then undertake BVT on the basis of quality and cost.

Constantly shifting ground rules that make planning very difficult

It is very difficult for us to plan in the medium to long term if at every stage or tender round the LSC change the rules. For example, linking housing with family has not

happened before. The arrangements for consortia, or contracting with a single provider only, change in different tender rounds. The LSC defined its Social Welfare Law bundles in its Strategy and is now dividing and sub dividing the group in different combinations and in the process throwing up more barriers to us bidding.

Another example of LSC inconsistency is in relation to the proposed 1:4 supervisor/adviser ratio. In the LSC's CLA tender documentation (Oct 2008) it was stated by the LSC that:

" CLA contracts will be awarded on the basis of a number of hours by category, not on the basis of number of advisers"... "How many advisers and supervisors you decide to use is entirely a matter for you, provided we are satisfied that your plans will enable you to comply with the requirements of the contract".

There is no need for an adviser/supervisor ratio to be imposed and to do so would be completely inconsistent with current LSC procurement.

Some of the proposals fundamentally affect our cost base

They fundamentally affect our cost base and we gain little or no benefit from the advanced functionality of our IT system in which we have invested heavily to deliver efficiencies across a national organisation.

Concern that the consultation is a fait accompli

We are worryingly picking up intimations from LSC staff in the regions that some of the proposals are a fait accompli. Similarly we hear that the LSC will weight responses according to how many are received making our position as one provider but with 30 contracts a much weaker voice than it arguably should be.

General economic conditions and LSC timing

We are concerned that due to general economic conditions the volume of clients needing advice and assistance is growing daily as the credit crunch deepens. There are no indications that the economy will improve for the time being. The reasonable view is that the downturn and credit crunch will worsen and last for some time before improving at some much later point. Given these facts, it does not seem sensible to try to re-configure legal advice provision at a time when more people than ever before will need access to reliable and stable advice services. We have set out below further reasons why the timetable seems rushed and too short; but purely on external economic reasons the timetable should be extended and legal advice provision should not be re-configured causing disruption at the most inappropriate time.

The timetable is too short

The timetable shows that the LSC response to the consultations will not be available until June. The bidding round for the 2010 contracts is due to begin in July. This leaves very little time for agencies to digest and understand the implications of the LSC response. We suggest that the LSC issue their decisions on key aspects of the consultation as and when they are made, rather than wait for the full consultation response in June.

Partnership working – and any move towards forming consortia - take a huge amount of time and effort. Agencies need to carry out this work from now – without knowing the final LSC position. This places considerable strain and cost on agencies. We refer to the paper by the Cabinet Office / Office of the Third Sector - December 2008

on different models of consortia, pros and cons, and the work and time involved found at:-

<http://www.cabinetoffice.gov.uk/media/107235/consortium%20guide%20final.pdf>

Providers need time to (a) resolve the consortia questions with the LSC, and (b) for providers to decide what they want to do, approach possible consortees and so on.

We suggest that either the LSC bring forward their consultation response time OR that the bidding round for the LSC contracts is delayed beyond the summer of 2009.

Conclusion

Shelter has embraced the spirit of the LSC strategy and has supported the proposals to open up advice to more clients and offer more choice and better value for money. We have re-engineered our front line services and invested in IT to help us improve the quality of our services and better meet LSC contract requirements. These latest proposals introduce more change, more detailed delivery requirements and propose conditions that fundamentally affect our cost base. We are not convinced that it can be shown how these changes will necessarily improve accessibility or quality for clients. Providers need a period of stability to build up and improve services, not more disruption and uncertainty.

FOI disclaimer

If you want the information you provide to be treated as confidential, please be aware that under the Freedom of Information Act (FOIA) there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatically confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Commission.

E-consultation feedback

Please could you tell us your reasons for not responding to this consultation online, (this is so that we can develop the system further to improve it for future use).

The consultation is very long requiring detailed responses. It is easier to work on a word format document than on-line in drafting the response. We would suggest that if you would like more on-line responses that the word version could somehow be uploaded to an e-version – perhaps also in sections that providers could work on in draft before deciding to send a final version.