

Title: Transforming Legal Aid: Reforming fees in civil legal aid and Expert Fees in Civil, Family and Criminal Proceedings IA No: MoJ198 Lead department or agency: Ministry of Justice Other departments or agencies:	Impact Assessment (IA)	
	Date: 09/04/2013	
	Stage: Consultation	
	Source of intervention: Domestic	
	Type of measure: Secondary Legislation	
Contact for enquiries: Kevin Westall Kevin.westall@justice.gsi.gov.uk		
Summary: Intervention and Options		RPC Opinion: RPC Opinion Status

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out? Measure qualifies as One-Out?
£m	£m	£m	No NA
			No NA

What is the problem under consideration? Why is government intervention necessary?

In a drive to reduce public spending to aid reduction of the fiscal deficit, the Government took steps in 2010 to reform the legal aid system in England and Wales to achieve savings. Since then, Government has continued to review expenditure in this area to ensure value for money is achieved in delivering the service required. However, against a backdrop of continuing pressure on public finances, there is a need to continue to bear down on the cost of legal aid, to ensure that we are getting the best deal for the taxpayer, and that the system commands the confidence of the public. To make such changes, Government intervention is necessary as it is responsible for the terms of access to legal services funded by the legal aid budget and setting remuneration rate.

What are the policy objectives and the intended effects?

In reviewing every area of expenditure to achieve savings to reduce the fiscal deficit, the Government strives to ensure that expenditure attributed to legal aid represents value for money, that fees paid are fair and consistent with those paid for similar work, and that they reflect efficiencies of reforms in the justice system.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 0: Do nothing.

Option 1: Reduce the fixed representation fee paid to solicitors in family cases covered by the Care Proceedings Graduated Fee Scheme

Option 2: Harmonise fees paid to self-employed barristers with those paid to other advocates appearing in civil (non-family) proceedings.

Option 3: Removal of the uplift in the rate paid for immigration and asylum upper tribunal cases.

Option 4: Reduce experts fees in civil, family and criminal proceedings

Will the policy be reviewed? We will monitor the impacts of the policy. **If applicable, set review date:** /Year

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes/No	< 20 Yes/No	Small Yes/No	Medium Yes/No	Large Yes/No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded:		Non-traded:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister  Date: 09/04/2013

Summary: Analysis & Evidence

Policy Option 1

Description: Reduce the fixed representation fees paid to solicitors in family cases covered by the Care Proceedings Graduated Fee Scheme

FULL ECONOMIC ASSESSMENT

Price Base Year 11/12	PV Base Year NA	Time Period Years NA	Net Benefit (Present Value (PV)) (£m)		
			Low: -	High: -	Best Estimate: -

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	-	-	-
High	-	-	-
Best Estimate	Negligible	£20m	-

Description and scale of key monetised costs by 'main affected groups'

Legal Aid Providers: Legal aid providers (solicitors) are estimated to experience a decrease of approximately £20m per annum in their legal aid income.

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	-	-	-
High	-	-	-
Best Estimate	-	£20m	-

Description and scale of key monetised benefits by 'main affected groups'

Legal Aid Fund: The proposal is estimated to reduce legal aid expenditure by approximately £20m per annum in steady state.

Other key non-monetised benefits by 'main affected groups'

Key assumptions/sensitivities/risks

- The supply of solicitors will be sufficient to meet demand for legal aid work
- The same quality of services will be supplied by solicitors.

Discount rate (%)

N/A

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: NA	Benefits: NA	Net: NA	No	NA

Summary: Analysis & Evidence

Policy Option 2

Description: Harmonise fees paid to self-employed barristers with those paid to other advocates appearing in civil (non-family) proceedings

FULL ECONOMIC ASSESSMENT

Price Base Year 11/12	PV Base Year NA	Time Period Years NA	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: -

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	-	-	-
High	-	-	-
Best Estimate	Negligible	£3m	-

Description and scale of key monetised costs by 'main affected groups'

Legal Aid Providers: Legal aid providers (barristers) are estimated to experience a decrease of approximately £3m per annum in their legal aid income.

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	-	-	-
High	-	-	-
Best Estimate	-	£3m	-

Description and scale of key monetised benefits by 'main affected groups'

Legal Aid Fund: The proposal is estimated to reduce legal aid expenditure by approximately £3m per annum in steady state.

Other key non-monetised benefits by 'main affected groups'

Key assumptions/sensitivities/risks

- The supply of advocates will be sufficient to meet demand for legal aid work.
- The same quality of services will be supplied by advocates.

Discount rate (%)

N/A

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: NA	Benefits: NA	Net: NA	No	NA

Summary: Analysis & Evidence

Policy Option 3

Description: Remove the uplift in the rate paid for immigration and asylum Upper Tier Tribunal appeal cases

FULL ECONOMIC ASSESSMENT

Price Base Year 11/12	PV Base Year NA	Time Period Years NA	Net Benefit (Present Value (PV)) (£m)		
			Low: -	High: -	Best Estimate: -

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	-		-	-
High	-		-	-
Best Estimate	-		£1m	-

Description and scale of key monetised costs by 'main affected groups'

Legal Aid Providers: Legal aid providers are estimated to experience a decrease of approximately £1m per annum in their legal aid income from immigration and asylum Upper Tribunal appeal cases as a result of the removal of the uplift.

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	-		-	-
High	-		-	-
Best Estimate	-		£1m	-

Description and scale of key monetised benefits by 'main affected groups'

Legal Aid Fund: The proposal is estimated to reduce legal aid expenditure by approximately £1m per annum in steady state.

Other key non-monetised benefits by 'main affected groups'

Key assumptions/sensitivities/risks	Discount rate (%)
<p>- There is a risk that providers may refuse to take on these cases as the remuneration for successful cases has decreased.</p> <p>- We are unable to identify in the Legal Aid Agency (LAA) data whether the uplift has been paid for all immigration and asylum Upper Tribunal appeal cases. The savings estimates assume it has been paid in all cases.</p>	

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: NA	Benefits: NA	Net: NA	No	NA

Summary: Analysis & Evidence

Policy Option 4

Description: Reduce experts fees in civil, family and criminal proceedings

FULL ECONOMIC ASSESSMENT

Price Base Year 11/12	PV Base Year NA	Time Period Years NA	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: Negligible

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	-	-	-
High	-	-	-
Best Estimate	Negligible	£20m	-

Description and scale of key monetised costs by 'main affected groups'

Legal Aid Providers: Experts who provide evidence in legal aid funded cases are estimated to experience a decrease of approximately £20m per annum in their legal aid income.

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	-	-	-
High	-	-	-
Best Estimate	-	£20m	-

Description and scale of key monetised benefits by 'main affected groups'

Legal Aid Fund: The proposal is estimated to reduce legal aid expenditure by approximately £20m per annum in steady state.

Other key non-monetised benefits by 'main affected groups'

Key assumptions/sensitivities/risks

- The supply of experts will be sufficient to meet demand for legal aid work.
- The same quality of services will be supplied by experts.

Discount rate (%)

N/A

BUSINESS ASSESSMENT (Option 4)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: NA	Benefits: NA	Net: NA	No	NA

Evidence Base (for summary sheets)

1. Introduction

Background

1. This Impact Assessment (IA) accompanies the Ministry of Justice's (MoJ's) consultation on "*Transforming Legal Aid: Delivering a More Credible and Efficient System*". The consultation document was published on 9 April 2013 and can be found at: www.justice.gov.uk.
2. The legal aid scheme involves the public procurement of legal services and determines the terms and conditions of access to these services. Expenditure accrued to the legal aid fund was just over £2bn in 2011/12. This represented around 25% of the Ministry of Justice's (MoJ) net resource budget. Approximately £1.1bn was spent on criminal legal aid, with the remaining £0.9bn spent on civil legal aid. The Legal Aid Agency (LAA) is responsible for administering the legal aid scheme in England and Wales.
3. Following its 2010 consultation *Proposals for the Reform of Legal Aid in England and Wales*, the Government implemented a programme of reform comprising reductions in fees paid to criminal and civil legal aid service providers and to experts in criminal and proceedings, and changes to civil legal aid scope and eligibility through the Legal Aid, Sentencing and Punishment of Offenders Act 2010 (LASPO). These reforms were estimated to deliver savings of around £320m by 2014/15.
4. The LASPO reforms have done much to ensure that taxpayer funding is targeted at those who need it most and ensuring it is available for the most serious cases where this is justified. However, with continuing pressure on public finances, there is a need to continue to reduce public spending in order to alleviate the burden of debt and engender sustainable economic growth. Further reforms are being considered to reduce the cost of the scheme in ways which drive greater efficiency, support our wider efforts to transform the justice system and ensure public confidence, while ensuring that clients can continue to receive the services they require at the time that they need them. The proposed fee reforms in this IA relate to those outlined in the consultation paper. They are summarised below.
5. As public family law cases represent a high proportion of civil legal aid spend, it is necessary to consider further savings in this area to meet fiscal challenges. Existing rates for solicitors working on public family law cases do not necessarily reflect the amount of work involved, or reflect the likely reduction in work as a result of the Family Justice Reforms, which aims to reduce the case duration and reduce the use of experts.
6. Currently solicitor advocates and barristers in civil (non-family) cases receive different fees for carrying out similar services in the same types of case. Paying different providers different fees for undertaking the same type of work is not considered equitable or efficient.
7. Providers currently receive uplifted higher legal aid rates of payment for immigration and asylum Upper Tribunal appeals. The higher rate was put in place under an old scheme of retrospective funding where work on the whole appeal was 'at risk' and was intended to compensate providers for carrying the risk of non-payment throughout a case. Under existing arrangements, only work on the permission application is 'at risk' and payment is made after a successful application. Given the different arrangements in place since the higher rate was introduced, we do not consider continued payment of the higher rate to be justified.
8. A comparison of the fee rates for experts paid by the prosecution in criminal cases suggests that the codified hourly rates paid to experts under legal aid are higher and therefore further savings could be accrued in this area. The aim is to ensure that rates are more closely aligned with those paid elsewhere for comparable services.

Policy objectives

9. We are concerned that expenditure on civil legal aid remuneration should represent value for money, in particular in public law family cases which will account for the majority of civil legal aid spend. We also wish to address the differential in payment rates which have no basis in the type or level of service provided, to ensure that fees are fair and consistent and that providers are remunerated at broadly similar rates.

Policy

10. This IA considers the cumulative effect of the proposed reforms in the consultation paper on civil fee remuneration. This is done on the basis of the four proposed reforms being implemented as a package. The fourth proposal relates to experts in criminal and civil cases. The individual reforms are summarised below:
 - (i) **Reduce the fixed representation fees paid to solicitors in family cases covered by the Care Proceedings Graduated Fee Scheme**
This option would involve the implementation of a 10% reduction in the representation fees paid to solicitors in public law family cases.
 - (ii) **Harmonise fees paid to self-employed barristers with those paid to other advocates appearing in civil (non-family) proceedings**
This option proposes that self-employed barristers¹ in civil (non-family) proceedings in the County Court, Upper Tribunal and High Court should be remunerated on the same basis as other advocates. They could also, like other advocates, receive an enhancement of that fee subject to specific criteria being complied with.
 - (iii) **Remove the uplift in the rate paid for immigration and asylum upper tribunal cases**
This option proposes to remove the 35% uplift in the rate paid for immigration and asylum Upper Tribunal appeal cases where permission is granted.
 - (iv) **Reduce experts fees in civil, family and criminal proceedings**
This option proposes a 20% reduction in the fees currently paid to experts funded through legal aid (civil, family and crime).

Main affected groups

11. The following key groups are likely to be affected by the proposals:
 - Civil legal aid service providers - legal firms contracted with the LAA for publicly funded work, advocates conducting legal representation for clients, and expert witness services; and
 - the LAA, who are responsible for administering legal aid.

Costs and benefits

12. This IA identifies both monetised and non-monetised impacts on individuals, groups and businesses in England and Wales, with the aim of understanding the overall impact on society from implementing these proposed fee reforms. The costs and benefits of each reform are compared to the “do nothing” option. The IA places 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 some aspects that cannot always be monetised.
13. This IA considers the impact of the fee reforms proposed when implemented as a package as opposed to in isolation.

¹ A self-employed barrister here means an individual under the rank of Queen's Counsel.

14. The civil legal aid remuneration reforms have been modelled against a flat baseline of 2011/12 closed cases and costs and adjusted for reforms announced in the past but yet to be fully reflected in the data.
15. All savings figures have been rounded to the nearest £1m for estimates below £10m and to the nearest £5m for estimates above £10m. All volume changes have been rounded to the nearest 100 cases below 10,000 volumes and to the nearest 1,000 above 10,000.

Methodology and Assumptions

16. The following assumptions have been made in the estimation of the costs and benefits:
 - (i) The supply of services from providers (solicitors, barristers and experts) is sufficient to meet demand at new fee rates.
 - (ii) Providers (solicitors, barristers and experts) are assumed to supply the same quality of service to legal aid.

Option 0: Do Nothing

Description

17. The “do nothing” option is the base case. This in effect would mean that the current fee remuneration rates would continue to operate as now. The current rates are set out in the Civil Legal Aid Remuneration Regulations 2013² and the Criminal Legal Aid (Remuneration) Regulations 2013³.
18. As this option is compared against itself, its costs and benefits are zero, as is its Net Present Value (NPV).

Option 1: Reduce the fixed representation fee paid to solicitors in family cases covered by the Care Proceedings Graduated Fee Scheme

Description

19. Representation fees (i.e. for work excluding advocacy) paid to solicitors in public law cases are fixed regardless of the amount of work involved or the number of hearings in the case. The current rates applicable are set out in Part 1 (Table 2(c)) and Part 3 (Table 9(a)) of the Civil Legal Aid (Remuneration) Regulations 2013. This option proposes a 10% reduction in the representation fee paid to a solicitor, i.e. the fees in the stated tables.

Costs

Legal aid service providers

20. In 2011/12, public family law solicitor expenditure (excluding disbursements) was approximately £220m. Solicitors undertaking public family law cases are estimated to experience a £20m per annum reduction in legal aid fee income from a 10% cut to their fees.

LAA Administrative Costs

² <http://www.legislation.gov.uk/ukxi/2013/422/contents/made>

³ <http://www.legislation.gov.uk/ukxi/2013/435/made>

21. The one-off costs from the change in rates have not been estimated. However we expect them to be negligible. These costs will relate primarily to amending IT systems to take account of the new fee arrangements.

Benefits

Legal Aid Fund

22. The benefit to the Legal Aid Fund would equate to the reduction in income to legal service providers set out in the rates payable as a result of a 10% reduction. In overall terms this is estimated to be in the region of £20m per annum in steady state.

LAA Administrative Benefits

23. There might be small ongoing benefits. The LAA might contract with fewer providers if some providers choose not to supply their services to legal aid.

Wider economic benefits

24. A reduction in Government spending associated with the reduction in legal aid would contribute to achieving the Government's macroeconomic objectives, in particular contributing to the reduction of the size of the budget deficit.

Risks and Uncertainties

25. There is a risk that the legal aid market may not be able to sustain the cuts to civil legal aid fees. There are two potential impacts on the market: the number and type of suppliers and the quality of advice received.

- (a) The results from the recently published survey jointly commissioned by the Ministry of Justice, The Law Society and the Legal Services Board “A Time of Change: Solicitors’ Firms in England and Wales”⁴ suggests that approximately one third of legal aid firms were considering withdrawing from legal aid. However, the results from the latest legal aid tender for contracts (post the most recent legal aid changes) suggests that more firms are willing to undertake legal aid work than previous tenders. This suggests that there is currently still some appetite to undertake legal aid work despite previous fee reductions. However, it does not tell us anything about the impact of future reductions on sustainability which is uncertain. This is subject to multiple factors, such as providers cost base and their adaptability, where limited concrete information is available.
- (b) Other factors, such as future demand and supply, also impact upon the number of providers willing to undertake legally aided work. The rising volume of public family law cases is likely to increase the risk that there will be an insufficient number of providers to meet the demand for work. However, the reduction in the scope of legal aid funded work implemented through the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 is likely to decrease the risk that there will be an insufficient number of providers to meet the demand for work. The overall impact is uncertain.
- (c) There is no evidence of the potential impact on the quality of advice. However, we believe more junior legal professionals are able to provide a sufficiently high quality service to enable individuals to be adequately represented should more senior solicitors take on less of this type of work. In addition, they will continue to be required to meet the LAA minimum quality standards should some of the providers decide to withdraw from the market.

Enforcement and implementation

- 26. Subject to the outcome of the consultation, it is currently anticipated that this proposal will be implemented through secondary legislation to be laid in Autumn 2013.

Option 2: Harmonise fees paid to self-employed barristers with those paid to other advocates appearing in civil (non-family) proceedings

Description

- 27. This option proposes that self-employed barristers appearing in civil (non-family) proceedings in the County Court, Upper Tribunal and High Court should be remunerated on the same basis as other advocates. This would mean they would be paid standard rates, subject to enhancements at the discretion of the assessing authority.

Costs

Legal aid service providers

- 28. Self-employed barristers undertaking civil non-family work will experience a fall in legal aid income as a result of this proposal. The closed case income of civil (non-family) barristers in 2011/12 was approximately £20m. Civil (non-family) barristers are estimated to experience a reduction in income of approximately £3m per annum in steady state.

LAA Administrative Costs

- 29. The one-off costs from the change in rates have not been estimated. However we expect them to be negligible. These costs will relate primarily to amending IT systems to take account of the new fee arrangements.

⁴ <http://www.lawsociety.org.uk/representation/research-trends/research-publications/docs/a-time-of-change---solicitor-firms-in-england-and-wales/>

Benefits

Legal Aid Fund

30. There will be a financial saving to the Legal Aid Fund. This equates to the reduced income payable to self-employed barristers and is estimated to reduce legal aid expenditure by approximately £3m per annum in steady state.

Wider economic benefits

31. A reduction in Government spending associated with the reduction in legal aid would contribute to achieving the Government's macroeconomic objectives, in particular contributing to the reduction of the size of the budget deficit.

Risks & Uncertainties

32. There is a risk that the legal aid services market may not be able to sustain the cuts to civil legal aid fees. There are two potential impacts on the market (a) the number and type of suppliers; and (b) the quality of advice received.
- (a) The impact of the proposed reforms on the number of civil (non-family) barristers willing to do legal aid work is uncertain. The latest LSC (now LAA) tender suggests that there is currently still some appetite to undertake publicly funded work despite previous fee cuts. However, it does not tell us anything about the impact of future cuts on sustainability which is dependent upon multiple factors, such as provider cost base and their adaptability.
- (b) There is no evidence on the potential impact on the quality of advice. However, we believe solicitor advocates could provide a sufficiently high quality service to enable individuals to be adequately represented in court and that they will continue to meet the LAA minimum quality standards should some self-employed barristers decide to withdraw from the market.

Enforcement and implementation

33. Subject to the outcome of the consultation, it is currently anticipated that this proposal will be implemented through secondary legislation to be laid in Autumn 2013.

Option 3: Remove the uplift in the rate paid for immigration and asylum Upper Tribunal cases

Description

34. This policy removes the 35% uplift on immigration and asylum Upper Tribunal appeal cases where permission is granted.

Costs

Legal Aid Providers

35. Legal aid providers will experience a fall in income from the removal of the 35% uplift in immigration and asylum Upper Tribunal appeal cases. This is estimated to be £1m per annum in steady state and impact upon approximately 1,300 cases per annum.

LAA Administration Costs

36. Removing the payment uplift in immigration and asylum Upper Tribunal appeal cases may lead to a small increase in LAA administration costs. The LAA may need to amend financial systems. In addition some additional training may be required.

Benefits

Legal Aid Fund

37. Based on 2011/12 LAA closed case data, the removal of the 35% uplift is expected to save the Legal Aid Fund £1m per annum in steady state.

Risks and uncertainties

38. There is a risk that the legal aid market may not be able to sustain the reductions in civil legal aid fees. There are two potential impacts on the market: (a) the number and type of suppliers and (b) the quality of advice received.
- (a) The impact of the proposed reforms on the number of providers willing to do legal aid work is uncertain. The most recent LAA tender suggests that there is currently still some appetite to undertake publicly funded work despite previous fee reductions. However, it does not tell us anything about the impact of future cuts on sustainability which is dependent upon multiple factors, such as provider cost base and their adaptability.
 - (b) There is no evidence on the potential impact on the quality of advice. However, we believe more junior legal professionals are able to provide a sufficiently high quality service to enable individuals to be adequately represented should more senior solicitors take on less of this type of work. In addition, they will continue to be required to meet the LAA minimum quality standards should some of the providers decide to withdraw from the market.
39. There is a risk that providers may refuse to take on immigration and asylum cases because the remuneration where permission is granted has decreased. This is a risk for the LAA and for individuals who have a dispute.
40. If the above risk were to materialise, individuals may choose to address their disputes in different ways. They may represent themselves in court, seek to resolve issues by themselves, pay for services which support self-resolution, pay for private representation or decide not to tackle the issue at all.
41. The resource used in alternative dispute resolutions is uncertain. The resources used to resolve the dispute may change. However this will depend upon the behavioural responses of clients to the policy change which are not known.
42. The client outcomes from alternative dispute resolution are uncertain. Client outcomes may change. However, this will depend upon the behavioural responses of clients to the policy change which are not known.
43. We are unable to identify in the LAA data whether the uplift has been paid for all immigration and asylum Upper Tribunals appeal cases. The savings estimates assume they have been paid in all cases and therefore may be a slight overestimate.

Enforcement and implementation

44. Subject to the outcome of the consultation, it is currently anticipated that this proposal will be implemented through secondary legislation to be laid in Autumn 2013.

Option 4: Reduce Experts fees in civil, family and criminal proceedings

Description

45. The rates currently payable from legal aid for the most frequently used expert types are set out in Schedule 5 of the Civil Legal Aid (Remuneration) Regulations 2013 and Schedule 5 of the Criminal Legal Aid (Remuneration Regulations) 2013. This option proposes a 20% reduction in the fees paid to experts funded through legal aid (civil, family and crime) set out in the stated tables.

Legal aid service providers – Experts

47. The costs to experts would equate to the difference between income they receive now and income they would receive under a fee reduction of 20% for the same work for civil, family and criminal experts. This is estimated to reduce experts' income from legal aid by approximately £20m⁵ per annum in steady state.
48. The available 2011/12 LAA administrative data suggests that around £30m per annum is currently spent on experts in criminal Litigators Graduated Fee Scheme (LGFS) cases. On this basis, a 20% cut to expert fees in criminal legal aid is estimated to reduce criminal experts' income from legal aid by £6m per annum in steady state. This is likely to be a slight underestimate of savings as it does not account for spending on experts in other LAA criminal legal aid schemes.
49. The LAA do not centrally record data on civil legal aid expert expenditure. However, expert expenditure is part of recorded disbursements. After adjusting 2011/12 civil disbursement expenditure for the impacts of the previous legal aid reforms, disbursements are estimated to be approximately £90m per annum. A recent review of LAA case files by MoJ on public law family experts suggests around 90% of disbursements in these cases relate to expert fees. In other areas of civil law the proportion of experts is lower and therefore, in line with previous assumptions in this area, we have assumed that two thirds of disbursements relate to expert expenditure. On this basis, expert expenditure in civil legal aid is estimated to be approximately £70m per annum, with a 20% cut reducing civil experts' income from legal aid by approximately £15m per annum in steady state.

LAA Administrative Costs

50. The one-off costs from the change in rates have not been estimated. However we expect them to be negligible. These costs relate primarily to amending IT systems to take account of the new fee arrangements.

Benefits

Legal Aid Fund

51. The benefit to the Legal Aid Fund would equate to the reduction in income to experts set out in the rates payable as a result of a 20% reduction. This is estimated to be in the region of £20m per annum in steady state.

Wider economic benefits

52. A reduction in Government spending associated with the reduction in legal aid would contribute to achieving the Government's macroeconomic objectives, in particular contributing to the reduction of the size of the budget deficit.

⁵ Total may not sum to its component parts due to rounding.

Risks and Uncertainties

53. There is a risk that experts employed in the legal aid market may not be able to sustain reductions to their fees. There are two potential impacts on the market: the number and type of suppliers; and the quality of advice received.
- (a) Provider choice might be impacted through a reduction in the number of experts available if a large number of experts elect to leave the market as a result of a further fee reduction. Reforms following from the Family Justice Review are seeking to reduce the number of, and therefore the demand for, experts involved in public law family cases. This could mean providers are less likely to face a shortfall of experts going forward.
 - (b) Other factors, such as future demand and supply, also impact upon the number of experts willing to undertake legally aided work. The rising volumes of public law family cases are likely to increase the risk that there will be an insufficient number of experts to meet the demand for work. However, the reduction in the scope of legal aid funded work implemented through LASPO is likely to decrease the risk that there will be an insufficient number of experts to meet the demand for work. The overall impact is uncertain.
 - (c) There is a possible risk that in some cases, experts may respond to a further reduction in their fee by providing a reduced level and quality of service. We will continue to monitor whether this materialises.

Enforcement and implementation

54. Subject to the outcome of the consultation, it is currently anticipated that this proposal will be implemented through secondary legislation to be laid in Autumn 2013.