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Money Advice Liaison Group

A forum working for greater communication, understanding and professionalism

BRIEFING NOTE 1

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A BRIEFING NOTE ISSUED BY THE MONEY ADVICE LIAISON GROUP

CHANGES TO THE LEGAL AID SCHEME AND HOW THESE ARE LIKELY TO AFFECT DELIVERY OF MONEY ADVICE SERVICES

Introduction

In October 2007, the Legal Services Commission¹ (LSC) introduced a 'fixed-fee' remuneration scheme for all holders of Legal Aid contracts in civil (ie non-criminal) areas of law, including debt. This was a significant change, particularly for Not-for-Profit (NfP) agencies with no prior experience of the similar fee-per-case schemes that solicitors/advisers had operated under in private practice.

The paragraphs below outline the implications of the new scheme in terms of how money advice services carried out under Legal Aid contracts are likely to need to be re-configured. We hope that this information will be of use to creditors and debt collecting companies in particular, in acting as a means of informing expectations of what NfP services will be able to deliver in a changing environment.

What is the general effect of the changes?

Previously, NfP agencies were given an annual hours allocation for each area of law in which they offered services funded by the Legal Aid scheme. For example, an advice centre might have had an 1100 hours debt contract within which they could provide services on an unspecified number of 'matters'.²

¹ The LSC is the agency responsible for distributing Legal Aid funds on behalf of the Ministry of Justice.

² A 'matter' is either (a) a substantive single issue or (b) a cluster of issues that are not readily distinguishable from each other in terms of their potential resolution. Traditionally, the profile of debt matters has differed between private practice solicitors and NfP agencies, with the former tending to follow definition (a) and NfP agencies

Although controls were progressively put in place to ensure that agencies did not spend a disproportionate amount of time on individual matters, a degree of flexibility was retained, so that longer cases could be justified if, for example, the legal complexity of the issue(s) or the client's individual needs justified more time being spent.

This degree of latitude has now effectively been removed. Agencies are now allocated a number of matter starts for every twelve-month contract period, and will not be paid for time spent in excess of a standard cash limit per matter, which varies depending on the given category of law. In the case of debt advice, this fixed-fee ceiling equates to approximately four hours' work, when calculated according to the hourly rate payable under the previous contract regime.³

What is the specific impact of the changes on debt advice provision?

In the case of debt advice (as in all categories of law), the introduction of the fixed-fee scheme will oblige contracted agencies to consider efficiencies which will ensure that the time spent on as many matters as possible falls within the specified cost limit. Of more relevance, the vast majority of agencies will have no choice but to alter their case mix and/or consider client self-help approaches rather than continued adviser involvement and support throughout the 'term' of each and every case.

There are a number of strategies that agencies are considering and adopting to deal with the new scheme. The range of available approaches will vary from one organisation to another, contingent on issues such as the degree to which agencies can cross-subsidise an element of their work from other funding streams. However, it is likely that there will be a substantial number of situations in which agencies will have to limit the time spent on individual clients' cases. By definition this will have an impact on the depth in which agencies will be able to deal with matters.

Examples of specific instances where limits and use of alternative resources will have to be considered in relation to money advice matters include:

- Budgeting advice
- Income maximisation work
- Financial capability work to address the causes of debt

definition (b), eg assisting clients in arranging and abiding by informal repayment arrangements with a variety of creditors.

³ There is an escape threshold relating to cases whose duration exceeds the fixed-fee ceiling x 3 (so in relation to debt cases, this would equate to matters taking 12+ hours to complete), but in practice it is unlikely that many cases will reach this threshold, and so could only be paid up to a limit of four hours work, even if, for example, the matter took 11.5 hours to complete.

The impacts perceived by creditors and debt collecting companies of the new contracting regime might include:

- Less scope for adviser follow-through work to support initial offers
- Cases being closed more rapidly
- A greater likelihood of agreements failing due to reduced levels of adviser involvement
- Less negotiation, risking the development of a 'take it or litigate' culture
- 'Sticking-plaster solutions', with less scope for longer-term attempts to rehabilitate the person in debt
- Reduced budgeting and income maximisation work may lead to more insolvency and/or an increase in '£1 per month' type offers

Concluding comment

We hope that this briefing note has been of use in explaining the constraints that NfP agencies face in meeting their commitment to providing a holistic service to clients. We also hope that as a result of receiving this information, if creditors and debt collecting companies perceive changes in the NfP money advice 'offer', they will better understand that this is often the result of external pressures over which advice providers can exercise little control.

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