

The National Youth Advocacy Service response to the Legal Services Commission Consultation on Civil Bids Rounds for 2010 contracts.

Foreword

The Consultation paper proposes that the award of new Civil Contracts for 2010 will enable the LSC to procure more client focussed services. It is our view that the Consultation Paper is entirely focussed towards the needs of adult clients and does not address how services for child clients can be readily accessed by them. For children and young people the need for a permanent presence is not always required and consideration needs to be given to models of instruction taking and advice giving, which work for the benefit of children and young people but which do not necessarily require face to face interviews to take place at a contracted suppliers office. Specific consideration should be given to appropriate minimum quality standards for specialist services to children. There needs to be a recognition of the particular needs of children and young people so as to allow continuation of the existing successful provision of flexible models of delivery. This would ensure that suppliers could continue to offer a full range and breadth of integrated and seamless services to children and young people. For example, NYAS' model of providing legal advice to young people is an effective and well established model.

The LSC seek to redefine the bundles of services they buy, based on the evidence of the multiple nature of clients' problems and the consequent difficulties clients would experience if they had to be referred to different providers for different problems. It is our view that these proposals will dismantle skilled and experienced specialist provision for children and young people. They will prevent the continuation of existing integrated services by restricting provision to geographical procurement areas and requiring young clients to attend at suppliers' offices.

NYAS is a national organisation that provides advice and assistance to children and young people throughout the country. We address the specific legal needs of children and young people and ensure that they receive advice and assistance in a timely and appropriate manner. We welcome the opportunity to inform the approach of the LSC and urgently recommend that consideration be given to the creation of a model within the reform programme which specifically focuses on children and young people and which allows continuation of specialist provision on a national basis.

The Executive Summary

Whilst we appreciate the need to reduce costs it is important that children and young people continue to have access to independent justice, which is not linked to their parents financial status or their ability to pay. Comparisons of spend with other countries is not helpful as it not a comparison of like with like.

The Research:

Making legal rights a reality: The LSC strategy for the Community Legal Service, March 2006

NYAS supports the proposed focus of the strategy for the CLS to have an increased focus on the needs of the client. The current proposals in the LSC Consultation 2008 must not erode the ability to purchase legal services in ways that reflect clients' problems and make it easier for them to access services. The CLS indicate that this means directing funding and services to where clients most need them and for NYAS clients, who are mainly children and young people, the CLS must consider procurement on a national basis. This will ensure that the CLS meets another of **its focuses**, namely reaching out to provide legal advice and representation to the most vulnerable and disadvantaged in society. We do not agree that the current Consultation ensures the focus remains on the client needs of children and young people.

NYAS believes that we very clearly meet the vision of the CLS in respect of client focus, accessibility and attendance, with a cost effective, co-ordinated and quality assured service for children and young people which should not be undermined by the proposals in the current Consultation. NYAS is a specialist legal service and is able to promote the LSC's vision for a community legal service which places the client at its heart and focuses on the right of individuals. The LSC set out the intention to continue to develop legal advice services to uphold rights targeted at people for whom, without its support, access to justice might not be possible. NYAS' very specific model of service delivery ensures that children and young people, a vulnerable group within society, have a clear and accessible route for access to justice in a way that is flexible and provides the best possible value for the public purse.

Making legal rights a reality for children and families: LSC strategy for family legal aid, March 2007

. "The government's vision for the family justice system is to put children at the heart of the system, protect vulnerable people, ensure the system is accountable, and to provide simple processes that prevent unnecessary delay."

We would endorse the submission of para. 1.9 in respect of children who are taken into care and the acknowledgement that specialist legal advice is an effective legal tool to ensure local authorities comply with their obligations. NYAS are able to provide evidence of effective outcomes for children and young people through the intervention of NYAS in legal issues they have relating to the local authority as their corporate parent and it is important that such a service is not undermined or eroded for this vulnerable group within our society.

We welcome Para. 1.12 which indicates that access to integrated specialist legal advice for all these client groups will be a priority for the LSC over the next 5 years.

Maintaining a good level of access to family legal advice for children and young people is very different to maintaining appropriate access for parents and the LSC must be open

to the inventiveness and forward thinking provided by the NYAS model, which ensures that no child or young person across England and Wales is without access to face to face legal advice and assistance when and where they require it. NYAS do not believe that changes to procurement areas or the proposals for more integrated provision will improve the services for young people. The LSC must commit to comprehending and properly meeting the needs of this specific client group.

At para. 1.18 the LSC acknowledges that young care leavers often find it particularly hard to access specialist legal advice and NYAS is committed to ensuring that we encourage new solicitors and legal executives to remain in the family law arena and to address the specific and related needs of children and young people through the legal advice given to them.

It is our view that the LSC must give consideration to specialist services that cannot be provided locally in every area, but which can meet these specific needs for children and young people. NYAS are encouraged that, at paragraph 2.12 of the Research, there is recognition of this and that the LSC have set out the circumstances where they may consider tendering for services on a national level. NYAS provides a model where this provision can be offered effectively, without a significant impact on the LSC in terms of the management of a national contract.

NYAS is committed to working in partnership with the LSC and regularly engages with the judiciary, the Family Justice Council at national and local levels, and with a number of stakeholders to ensure that we achieve the clear outcomes expected of us in providing legal advice, assistance and representation to children and young people. We are committed to the effective management of the Legal Aid budget, which we feel is evidenced in our clear practices and procedures.

Volume 2.

The LSC acknowledge the changing pattern of family life. In the same way that adults are vulnerable to experiencing problems as a result of the change in the dynamics of families, so are children.

Reference is made to the difficulties children and young people may experience as a result of family breakdown and for children in the care of the local authority. It is acknowledged that outcomes for them are worse than their peers. It is important therefore to protect, as far as possible, this group within society and to acknowledge that family law, particularly for children is not a 'black letter' law with a clear and formal process, and that clients' behaviour is often driven by emotions, while decisions are made by a Judge based upon the best interests of the child. (Para 1.14).

It is important that children are adequately represented and given equality of arms through appropriate specialist advice in any proceedings in which they are involved.

We support more integrated and seamless provision for the delivery of all levels of advice from legal help to legal representation for children, with the same provider from start to finish.

The proposals for closely defining where services are delivered will prevent many children and young people from accessing services and create uncertainty about service availability and delivery. NYAS' national provision of legal advice and assistance for young people is tailor made to meet individual needs and the NYAS national Helpline allows young people to access support outside of office hours, a service rarely provided by high street practices.

The process for procuring services appears entirely adult focussed and has not taken into account existing provision and its capabilities for delivering legal advice and representation to children and young people.

NYAS is happy to support the reduction of some experts' costs as outlined in detail at Q 40 and Q 50 ; however NYAS is extremely concerned at the proposal to remove from scope some experts' costs. There is no clarity within the paper of the precise proposals in this respect. We consider that this masks a direct attack upon our tandem model whereby expert social work opinion supports our achievement of effective outcomes for children in entrenched and complex Rule 9.5 cases. We consider that there needs to be full and open discussion about any proposals which would have a major impact upon our work.

Introduction

NYAS considers that the LSC should ensure access to justice for all children and young people .

NYAS would support the LSC position that there is a need to ensure that the many excellent existing services are not disrupted, whilst allowing for competition, and we feel it is particularly of relevance in respect of the service offered by NYAS to children and young people nationally.

It is important that children and young people who are in the care of the local authority or detained in a YOI or secure accommodation do have appropriate access to legal advice and assistance. The majority of young people do not go to high street practices. A number of the young people NYAS advises have special needs which prevent them accessing high street advice. Many children and young people would be overwhelmed by the travel to and the formality of an office environment and the austerity associated with such places of business.

Through its work with children and young people, NYAS ensure that all issues for young people are resolved for them directly through our intervention and appropriate signposting.

We do not believe that young people would be any better serviced by the new proposals of the LSC. The 'Trouble Shared'... research, whilst not specifically indicating whether children formed part of the observation and analysis, did highlight that 37% of clients

observed had problems with the local authority. A significant number of children seeking legal advice from NYAS are in the care of the Local Authority and their issues are as a result of the inaction or inappropriate action of the local authority. NYAS does offer the holistic seamless provision of legal advice services suggested in the research and for this reason should be treated by the LSC as an exception to the proposals set out in the consultation.

We are pleased that services for children have been highlighted as a priority area for funding, and we are disappointed that there has **not** been a commensurate consideration of how best to meet their needs with a child focussed model of procurement. It is important that the delivery of services to this vulnerable group is not eroded and that what is described as a 'rational' allocation of budgets does not exclude the provision of services on a national basis when this is widely acknowledged to be an effective method of delivery for this group of clients. NYAS work with children in private law proceedings demonstrably and effectively moves the most entrenched cases through the courts, achieving long term and cost effective outcomes.

Equality and diversity

The LSC highlight that they must examine how its policies impact on the experience of diverse groups and in particular the issue of age is highlighted. This is a very significant factor for children and young people, together with potential issues around disability and ethnicity. In the same way that the needs of mental health, immigration and asylum clients should be taken into account as vulnerable groups, NYAS consider that the needs of children and young people need to be taken into account as a vulnerable group. Their access to mainstream legal services can be restricted as a result of their placement in local authority accommodation, residential or foster care, secure training centres or young offenders institutions. NYAS ensures, through its model of service delivery, that all children and young people are able to access appropriate legal advice and assistance. NYAS believe that there would be a disproportionate impact on children and young people if they are to be offered legal advice and services in the same way as adults. The NYAS model does act flexibly for our client group and this should be given specific consideration by the Legal Services Commission.

Levels of service to be delivered – family and low volume categories

Although NYAS does provide a full service for children and young people at any stage of family breakdown, NYAS' appointment in respect of Rule 9.5 cases comes via the Court. All referrals are made in accordance with the CAF/CASS/NYAS Protocol with specific case approval by the LSC for funding. In these cases it is not usual that a Legal Help will have been the starting point for the intervention. Recognition of this must be made within the proposed new arrangements.

Section 5: Where services will be delivered

Procurement areas

The LSC must give careful consideration to the limits upon children and young people of travel, not only as a result of cost implications but distance, vulnerability, special needs, disability and their general reluctance to seek out face to face advice in formal adult settings. We know that, as is said of mediation services, NYAS work using the tandem model of representation in respect of Rule 9.5 cases, does 'not place any pressure on the fund' but produces savings by moving entrenched cases quickly through the courts and achieving effective outcomes for the children. Thus reducing the number of applications submitted to the Court where the child is the subject. We consider therefore that the provision of legal services for children should be given the same recognition and degree of flexibility as mediation.

Access points

We would support that the LSC need to ensure that services are available to clients locally but where children are involved, it is important that access to services is at a time and place that meets their individual circumstances. We agree that they do not need to travel unreasonable and unnecessary distances where a service can be provided to them via outreach which is cost-effective.

Supported by our Free phone Helpline which is also available out of normal working hours and school time, and can be accessed by children through a range of media including by text, email or direct chat; children are given face to face access by outreach visits wherever they are placed, to identify their legal needs and provide them with access to legal advice and representation. This provides a high degree of rapid and easy access with flexibility and individuality for children and young people wishing to access legal advice.

Limiting services for children and young people to access points within predetermined procurement areas would remove this flexibility and increase the expense of client travel costs. It will mask demand from children and young people as they are less likely to come forward for advice. It will be difficult to correctly estimate the future level of demand at specific access points within given procurement areas. Specifying particular and limited areas for the provision of the service would result in patchy and uneven provision of appropriately experienced services for children across the country. Children and young people should not be denied access to legal services through withdrawal of an effective model of provision and NYAS should not be prejudiced in providing this service as a result of these proposals.

Proportion of work in procurement area

We welcome the LSCs desire to ensure ‘that organisations with experience in advising particular client groups remain accessible to clients across England and Wales’ and we request that this be applied to the provision of NYAS services for children and young people. We note that flexibility in working across boundaries is proposed in Mental Health (5.46) and that multiple locations are envisaged in Social Welfare law (5.57), and request that a flexible approach is taken to the provision of niche services for children and young people.

Family Mediation

We are dismayed to note in Vol 2 of ‘Making Legal Rights a Reality for Children and Families: (LSC Strategy for Family Legal Aid March 2007 Vol. 2), that the LSC have relied on discredited cost comparisons for the provision of separate representation, disputed by NYAS following the 2006 Consultation on Separate Representation of Children and subsequently acknowledged by the LSC to be incorrect. It was acknowledged in the DCA response to that consultation that cost comparisons were not like for like and were therefore unreliable. NYAS demonstrated unequivocally, that our intervention offers effective long term outcomes for children and significant long term savings to the public purse. **It is our view that, like mediation, the separate representation of children should also be treated separately and not be limited; on the grounds that each case resolved via separate representation brings savings to other parts of the fund.**

Section 6: How we will procure services

The LSC indicate that they do not wish to jeopardise the current access to advice services by requiring multi-category or broader contracts where providers cannot realistically deliver this. This is a very real issue for NYAS, who operate on a national level.

We urge the LSC to take the model provided by NYAS into account, as an exemplary model of provision of services for children and young people. The model was supported by the LSC at its inception and the LSC has contributed to its development over the years. It has proved to be a very successful model for service provision to an important and often vulnerable group of young service users, often offering a final opportunity for complex cases to achieve a satisfactory resolution.

The procurement process does not in our view take into account current supply and the proposals to achieve integrated services will undoubtedly disrupt current levels of access for children. Procurement plans must take into account the specific needs of children and young people. The LSC must ensure that the proposals do not exclude and prejudice this group from accessing and receiving legal advice.

It is our view that all advisors working with children and young people should have obtained enhanced disclosure checks from the Criminal Records Bureau as a pre-requisite.

Family work over the telephone

The LSC do not differentiate in their interim findings whether the family advice over the telephone was an effective service for children and young people. NYAS confirms that the telephone advice service offered to our clients is an effective and worthwhile one, which supports and backs up the face to face intervention with a young person who seeks advice from NYAS.

Consultation questions

Q.1 Are there any areas of family work other than child abduction that should be procured separately?

We consider that all services for children and young people should be integrated and procured as a separate area of family work.

In particular separate representation for children under Rule 9.5 should be a separate category of family work - there must be acknowledgement of the added value and cost effectiveness for the LSC as a result of the long-term outcomes for children.

All providers of specialist services for children should be able to undertake child abduction work

NYAS believe that the provision of advice and assistance to children and young people requires specialist skills with a distinct approach to service delivery that takes account of the particular communication needs of children and their difficulties in accessing adult style services. Consideration should be given to maintaining the NYAS national model of service provision which provides several referral routes and a flexible approach to taking their instructions. We believe that this is a well established model which most appropriately meets the needs of children and young people in whatever environment they find themselves.

The LSC seek to redefine the bundles of services they buy, based on the evidence of the multiple nature of clients' problems and the consequent difficulties clients would experience if they had to be referred to different providers for different problems. It is our view that these proposals will dismantle skilled and experienced specialist seamless provision for children and young people

Q.2 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?

NYAS believes that in the scale of the LSC budget Rule 9.5 separate representation is a low volume and specialist category, and as such should be considered within the exceptional funding stream. We consider that children's work is significantly specialist

and should be tendered for separately, allowing a different model for service delivery that meets the needs of children and young people.

Q.3 Do you agree with the types of services we intend to procure in each category of law? If not, how should services be structured to ensure more integrated advice?

Yes but we consider that there should be a separate approach to the delivery of services for children and young people, which differ from those of adult clients. We consider that there should be a separate category within mental health to include mental health and community and tribunal representation for children and young people with mental health problems.

Q.5 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?

We do consider it reasonable to seek to avoid the risk of multi category contracts dropping to individual categories. However if advice in a particular category is not requested, under these proposals this could jeopardise the entire contract,. It is our view that there would need to be reasonable discretion on the part of the LSC.

We consider that the provision of separate representation of children is a niche service which can not be integrated into the full range of services geared towards the needs of adults. We have long been concerned that this work is not readily assimilated into mainstream and integrated provision of family services and requires development of sufficient experience of working with children as well as sufficient experience of operating within the legal aid environment. We have evidence of our ability to deal with a significant volume of new matter starts for children; our success highlights the clear need of children and young people. As such, we would propose the recognition of NYAS as a niche/specialist service with an indicative minimum new matter start size, with, as proposed, the discretion to allow contracts to continue in exceptional circumstances.

NYAS provides a specialist service which has significant experience of operating within the Legal Aid environment and, in particular, for a specific and vulnerable group whose needs must be given serious consideration by the LSC. Consideration must be given as to how children will access legal advice if the proposals set out by the LSC for face to face contact in a permanent office environment are implemented. The service provided to our young clients offers a level of access to an experienced and specialist service that is meaningful and corresponds to requirements around provider presence in any area as it is provided to young people at a national level, ensuring that they have easy and wide access to justice.

Q.6 Are the minimum new matter start sizes required set at the right level in each category? If not, why – for example, is there a case for setting lower new matter start sizes in rural areas?

If NYAS is recognised as a niche service then fresh consideration would need to be given to the level of new matter starts for that service on a national basis. This would require an examination of the current pattern and volume of representation currently being undertaken.

Q.7 Is the minimum supervisor to caseworker ratio set at the correct level or are there, for example, some categories where processes are simpler, and as such require less supervision?

Consideration needs to be given to the level of experience of fee earners who are not supervisors. It may be appropriate that a supervisor supervises a larger number of more qualified staff with an agreed number of years experience or other panel memberships, as compared to younger less experienced or unqualified staff who may require greater supervision. Consideration should also be given to a model of devolved supervision for general help.

Levels of service to be delivered – family and low volume categories

Although NYAS does provide a full service for children and young people at any stage of family breakdown, NYAS' appointment in respect of Rule 9.5 cases comes via the Court. All referrals are made in accordance with the CAFCASS/NYAS Protocol with specific case approval by the LSC for funding. In these cases it is not usual that a Legal Help will have been the starting point for the intervention. Recognition of this must be made within the proposed new arrangements.

Q.12 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?

Our experience of delivering a FAINS pilot for children and young people and the associated focus groups held with children and young people confirmed that children and young people also experience an 'overlap' between their advice needs and their emotional need for support, as well as young people wanting accessible advice at the times when they felt they needed it. We acknowledge that the LSC can not provide funding for support services, and specifying referral to family support is a positive gesture of intent, however unless there is a joined up approach between government departments to the provision and funding of these services, such referrals will simply provide an indicator of need without addressing the underlying problems of the client.

Q 13 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? If so what are these?

Mental Health providers providing a service to clients with children should be required to have close links with local authority children's services, and other providers of services for children, in order to ensure that the care needs of those children whose parents have mental health problems are appropriately met and the children's care plans are integrated into the treatment and care planning for their client.

Section 5: Where services will be delivered

Procurement areas

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Access points

We would support that the LSC need to ensure that services are available to clients locally but where children are involved, it is important that access to services is at a time and place that meets their individual circumstances. We agree that they do not need to travel unreasonable and unnecessary distances where a service can be provided to them via outreach which is cost-effective.

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Limiting services for children and young people to access points within predetermined procurement areas would remove this flexibility and increase the expense of client travel costs. It will mask demand from children and young people as they are less likely to come forward for advice. It will be difficult to correctly estimate the future level of

demand at specific access points within given procurement areas. Specifying particular and limited areas for the provision of the service would result in patchy and uneven provision of appropriately experienced services for children across the country. Children and young people should not be denied access to legal services through withdrawal of an effective model of provision and NYAS should not be prejudiced in providing this service as a result of these proposals.

Q.17 Do you foresee any issues with the proposed definition of permanent and part time presence?

We do foresee problems with the definition of permanent and part time presence for specialist services, and feel that this should be overcome through a national model supported by outreach. NYAS supports the delivery of services for children in a way that is practical and readily accessible by them. Our existing model ensures that all children and young people are seen on any day of the week and at a suitable location which is appropriate and convenient for them. Office accommodation is not generally child friendly. NYAS national model meets the LSC proposals for face to face advice as locally as possible and have the added support and advantage of a telephone Helpline, which can be accessed in a variety of child friendly ways at times to suit them.

Q.18 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?

Again, in respect of children this model is potentially prejudicial if it is only to be provided from an office base to which they have to travel to seek legal advice and representation. In those areas where there is a low volume of demand it is particularly advantageous to be able to provide experienced and specialised peripatetic services able to respond to need as it arises.

The type of presence proposed is not practical to us as a provider of a specialised service, as our current model minimises administrative costs and overheads. Children and young people know how to access NYAS services through targeted child friendly advertising that ensures that they know about our service and how to contact us.

Q.22 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? Is it appropriate to use video conferencing to provide face-to-face advice to clients where there is no local "access point"?

NYAS would be extremely concerned that children and young people should be expected to travel, even up to 45 minutes to seek legal advice when the model which we currently provide ensures that this is not necessary. We feel it wholly inappropriate for there to be video conferencing as an alternative to the current model we provide, where a young

person cannot travel the proposed distance. NYAS believes that recognition needs to be given to the national service offered by the organisation and the accessibility it provides to children and young people throughout the country who may otherwise be unable to access appropriate legal advice and assistance for their very specific needs. NYAS offers children and young people specific and easy means of accessing our services wherever they are, with NYAS national Help Line staff speaking 9 languages between them. The LSC highlight, in paragraph 5.5, the importance of taking into account the needs of Welsh speaking clients and NYAS feel strongly that the model of provision for services should also not discriminate against children.

Proportion of work in procurement area

We welcome the LSCs desire to ensure ‘that organisations with experience in advising particular client groups remain accessible to clients across England and Wales’ and we request that this be applied to the provision of NYAS services for children and young people. We note that flexibility in working across boundaries is proposed in Mental Health (5.46) and that multiple locations are envisaged in Social Welfare law (5.57), and request that a flexible approach is taken to the provision of niche services for children and young people.

Q.25 Do you agree with our proposed approach to setting certificated matter starts in family?

NYAS would not agree with the proposed approach set out by the LSC and would query how the LSC would propose to deal with Rule 9.5 referrals to NYAS should a matter start limit be placed on the organisation’s contract. This is potentially prejudicial and detrimental to children who are referred to NYAS direct by the Court, and we are required to move straight to representation. For every referral NYAS have already taken into account the NYAS/CAFCASS Protocol in ascertaining the appropriateness of legal representation. The LSC do not give specific information about the definition of expensive cases which they highlight as a concern which would lead them to limit the amount of certificated work a provider can undertake in limited circumstances. We do not agree that the number of certificated matter starts can be regulated in the same way as controlled work. NYAS undertakes predominantly complex cases referred direct by the courts.

These proposals take no cognisance of the well established procedures and protocols for NYAS to carry out predominantly complex and high cost cases, and would seriously impede our ability to represent very needy children who have already spent a significant part of their lives caught between warring parents and before the courts.

Family Mediation

We are dismayed to note in Vol 2 of ‘Making Legal Rights a Reality for Children and Families: (LSC Strategy for Family Legal Aid March 2007 Vol. 2), that the LSC have relied on discredited cost comparisons for the provision of separate representation,

disputed by NYAS following the 2006 Consultation on Separate Representation of Children and subsequently acknowledged by the LSC to be incorrect. It was acknowledged in the DCA response to that consultation that cost comparisons were not like for like and were therefore unreliable. NYAS demonstrated unequivocally, that our intervention offers effective long term outcomes for children and significant long term savings to the public purse. **It is our view that, like mediation, the separate representation of children should also be treated separately and not be limited; on the grounds that each case resolved via separate representation brings savings to other parts of the fund.**

Section 6: How we will procure services

The LSC indicate that they do not wish to jeopardise the current access to advice services by requiring multi-category or broader contracts where providers cannot realistically deliver this. This is a very real issue for NYAS, who operate on a national level.

We urge the LSC to take the model provided by NYAS into account, as an exemplary model of provision of services for children and young people. The model was supported by the LSC at its inception and the LSC has contributed to its development over the years. It has proved to be a very successful model for service provision to an important and often vulnerable group of young service users, often offering a final opportunity for complex cases to achieve a satisfactory resolution.

The procurement process does not in our view take into account current supply and the proposals to achieve integrated services will undoubtedly disrupt current levels of access for children. Procurement plans must take into account the specific needs of children and young people. The LSC must ensure that the proposals do not exclude and prejudice this group from accessing and receiving legal advice.

It is our view that all advisors working with children and young people should have obtained enhanced disclosure checks from the Criminal Records Bureau as a pre-requisite.

Q.36 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? Do you think applying a maximum number of matter starts bid per FTE will assist in that?

There must be provision for service providers to obtain additional new matter starts if they exceed the initial volume of matter starts awarded to them.

Q.38 Do you think the proposed selection criteria for each category are the best way to differentiate between bids?

Consideration should be given to the level of qualification and other panel memberships of members of staff, as well as experience. The ratio of Caseworker to Supervisor should

reflect this as it has done in the past, by way of the number of file reviews for example, which is to be undertaken for each Caseworker.

Q.40 Do you agree with the proposal to remove experts' cancellation and administration fees from the scope of public funding in all civil cases and to cap rates for experts' travel and waiting time?

NYAS has no objection to the proposals as set out by the LSC in respect of cancellation and administration fees and travel and waiting time.

We note, however, that in para. 7.8 the LSC propose to extend the changes to “any person or team instructed to express an opinion, prepare or give evidence in proceedings or proposed proceedings and treated as an expert by those instructing them and/or by the Court”. NYAS believes that this may constitute a threat to our tandem model and we invite the LSC to clarify if the proposed changes extend beyond cancellation fees and administrative costs and travel and waiting time and to further define the extent of the changes they propose, as this wording is not clear.

Family work over the telephone

The LSC do not differentiate in their interim findings whether the family advice over the telephone was an effective service for children and young people. NYAS confirms that the telephone advice service offered to our clients is an effective and worthwhile one, which supports and backs up the face to face intervention with a young person who seeks advice from NYAS.

Q 41 Do you agree that change of name work should be made available only by telephone?

In the small number of cases where children independently seek advice about changing their name they would need face to face advice and support as such requests often mask other issues.

Q.45 Do you agree that contractual KPIs focussing on delivery of quality of work, value for money and access to clients are appropriate?

We do agree that these are three important areas however we would like to see revision of outcome codes so that they are more appropriate for children. We do not agree that sanctions should be imposed on failure to meet the current unsatisfactory outcome codes. NYAS would wish to contribute to the further detailed work on the exact format and measurement of KPIs in order to ensure their appropriateness for services for children

Initial Impact Assessment

Q.50 Do you consider that the impacts on experts are justifiable in ensuring sustainable access to legal services for clients?

The precise impact on experts is unclear, NYAS is aware that the LSC is considering changes to the appointment of and payment for experts in a forthcoming Consultation. This consultation only indicates some changes in payments for travel and administration. Changes to payment for social work expertise would pose a direct threat to our tandem model which is widely acknowledged to provide excellent value for money and effective outcomes for children. If this is to be considered to be out of scope there should be full consideration of the impact of this upon our work.

Q.51 Do you have any comments on any prospective impacts of these proposals on clients or providers?

These proposals would have a direct impact on our young clients who would find it difficult to access services and would thereby be denied access to justice. They will reduce the level of expertise available through providers in fixed premises in fixed procurement areas and will result in static provision. It would reduce our ability to provide flexible and effective services for children and would seriously damage the charity.

Children and young people can currently access our service wherever they are in England and Wales, on a face to face basis, in an environment which is suitable and appropriate for them, reducing anxieties, ensuring a positive and open relationship which promotes confidence for the young person to ask questions about anything they are unclear of, and to give instructions and to ask questions on advice given. Under these proposals this flexibility would be lost.

Q.53 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?

The option to make standard payments (based on average cases costs) which are paid automatically when certain points are reached at each stage of the case would not be beneficial to NYAS, basing the fixed payments on our average case costs could possibly reduce payments on account in respect of larger, more active cases. Work flows are inevitably varied and capping payments on account based on an assessment of previous work is not a satisfactory approach.

We have no issue with limiting payments on account to 75% uncapped.

Q.54 Do you think there will be an impact on clients and providers on the basis of sexual orientation or religion or belief?

Children and young people who are or who perceive themselves to be different will be even less likely to seek advice from formal settings. It is our experience that young people who are gay or who have particular religious belief feel easily stigmatised and wary of persecution and harassment. They prefer to access our services remotely in the

first instance until they have developed trust and confidence. Under these proposals they are less likely to come forward to seek help and advice. As a Children's Rights provider it would be more difficult to provide legal advice to this group if they can not easily access the service.

Q.55 Do you have any comments on prospective impacts of these proposals on clients and providers on the basis of ethnicity, gender, age or disability?

These proposals make no provision for the age group and particular needs of our young clients. This is an important factor which should be taken into account in any proposed changes in the delivery of service for children and young people. Disabled children also require a flexible pattern of service delivery which would not be possible within these proposals.

Q.56 Do you have any comments on any prospective impacts of these proposals on small firms?

It is clear that small firms may find it difficult to meet the requirements set out in these proposals. However the LSC need to look beyond small firms to the impacts on an organisation such as NYAS, or any other organisation, which delivers a service nationally. It is important to acknowledge the likely adverse effect on small and specialist organisations and their clients.

Q.57 Do you consider there to be any adverse impacts on clients or providers in rural communities in the proposals outlined in the consultation paper? Is there anything more that you suggest the LSC does to take account of this group?

Again, these proposals would make it virtually impossible for children and young people in rural areas to access specialist expertise. Our current national model of service provision does enable children to access the service wherever they are, and we urge the LSC to reconsider the model proposed in order to allow for a specialist national model for children and young people.

National Youth Advocacy service.

