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Our ref: 209602
Your ref: Lordchan/legalaidreform/

11 January 2007

Dear Andy,



Thank you for your letter of 4 December, to Lord Falconer, enclosing correspondence from your constituent, [REDACTED] who is concerned with the proposals in Lord Carter's Review of Legal Aid Procurement. He refers to the Law Society's "What Price Justice?" campaign. I am replying as Minister for legal aid.

First, let me assure you that I am aware of the level of concern among practitioners and representative bodies regarding the proposals. The commitment that legal aid practitioners bring to their work is evidenced by the huge response we received to our consultation paper 'Legal Aid: a sustainable future' published in July. The consultation period has now ended and I am extremely grateful for the trouble so many people have taken to respond fully.

On 28 November, the Department for Constitutional Affairs published 'Legal Aid Reform: the Way Ahead', which sets out the detail of how we will reform the procurement of legal aid services, moving towards a market-based system. This paper takes account of the consultation responses, which we analysed carefully. You can find full details of the analysis of consultation responses and the 'Way Ahead' document on our website – www.dca.gov.uk/laid/laidfr.htm.

The reforms should be seen in the context of a wider agenda of change across our legal system. They will set legal aid on a sustainable footing for the future and will ensure that the most vulnerable people in our society receive the help they need. The reforms will ensure that the legal advice provided is of the highest quality and that



practitioners are able to make a decent financial return. They will also ensure that access to justice remains at the heart of our society.

The reforms build on the recent success of the Community Legal Service (civil legal aid). Last year the number of people the CLS helped was over 700,000, which is more than at any point since the Legal Services Commission's creation in 2000.

We are fully committed to the market-based approach set out by Lord Carter. We will move to fixed and graduated fees as a transitional step to best-value competition. However, we have listened carefully to the concerns expressed by legal aid practitioners about the effect of our proposals, and, where possible, have taken account of these. We have therefore made significant adjustments to the timing and sequencing of some of the proposed schemes, as well as to the detail of some original proposals, where we believe this will bring improvements.

In early 2007, the Legal Services Commission will re-consult on a revised Care Proceedings Graduated Fee Scheme, with a view to implementing the new scheme – apart from for advocacy – in October 2007. At the same time, the LSC will re-consult on a revised scheme for Family Help – Private, with a view to implementation in October 2007.

In October 2007, the LSC will also be introducing the Tailored Fixed Fee Replacement scheme for solicitors and the Not-For-Profit (NfP) sector, as described in the paper. Further information is to follow about revised schemes for immigration work, also for introduction at that time. Our intention in giving further time to introduce these revised schemes is to allow more time for providers to adapt to the new arrangements, as well as to get the detail right.

Although many respondents to the consultation were against fixed and graduated fees in principle for Mental Health work, the fact that 22% of providers (dealing with over 40% of cases) have been operating under tailored fixed fees since August 2004 shows that standard fees can operate successfully in this area of law, as in others.

However, while we remain committed to the principle of fixed and graduated fees, we recognise that concerns were raised about the structure of the scheme as proposed in the consultation paper. For example, respondents were concerned about the definition and amount of the "Level 1" fee, and we accept that this will need to be looked at again. The Legal Services Commission is therefore reconsidering the structure of the scheme in the light of responses, and is conducting a file review exercise to inform this. To allow for this review and re-modelling, we will therefore postpone implementation of the new fee scheme until October 2007. Details of the new scheme will be published in early 2007.

We will also be consulting on new proposals for advocacy for solicitors and barristers in private law and public law cases, to be introduced for April 2008.

The approach set out in our paper offers the best guarantee of an affordable, good quality legal aid system that will protect the vulnerable, and is fair to taxpayers and fair for practitioners.

I hope this is helpful in explaining the position. I enclose copies of this letter for you to send to [REDACTED], should you wish to do so.

Yours Ever

VERA BAIRD QC MP