

Respondent information

Name

[redacted]

Email

[redacted]

Are you responding as an individual or an organisation?

Organisation

Please enter your organisation's name

[redacted] Solicitor

SLAB would like your permission to publish your organisation's consultation response. Please indicate your preference.

Publish anonymous response

Are you content for SLAB to contact you again in relation to this consultation exercise?

Yes

Specific consultation questions

Q1: What are your views on how we assess reasonableness as part of the taxation test?

SLAB should include additional factors

Please provide further information of any changes proposed and the reason(s) for your answer:

Reasonableness is a flexible concept and should not be limited to a simple set of arbitrary bureaucratic rules - a cogent and logical explanation from the solicitor put forward to a suitably qualified person should be sufficient - SLAB needs to trust solicitors more.

Q2: What are your views on the process for seeking further information to support account entries that have been abated?

Abatements are most often presented as glib statements of disallowment and are not constructive. Proper explanation of what the solicitor ought to have done to obtain payment in the given situation in accordance with 'usual practice' in order to avoid abatement in future would be helpful. There is no available dossier that I am aware of which constitutes the terms of 'usual practice'. This information should be provided in simple terms to solicitors. The Legal Aid Handbook is not useful.

Q3: What are your views on how we could best keep up to date on what is 'usual' in any given practice area?

Every solicitor is different and employs different methodology - what you actually need to do is learn to trust solicitors more than you do and accept that if something unusual occurs then that should be all the more reason for a solicitor getting paid rather than subject the solicitor to the process of painstaking justification - the explanation of the work done can often be as complex and as time consuming as the actual work done.

Q4. Does the assessment process set out on page 11 of the consultation paper or appended policy statements raise any concerns in relation to treatment of care experienced young people, equality groups or other vulnerable people?

Yes

Please provide the reason(s) for your answer:

Legal Aid should be made freely available to all vulnerable persons or persons under the age of 16 without question or qualification. To seek justification for persons who do not hold full rights is ex facie prejudicial and discriminatory and against human rights law.

Q5: To what extent is the purpose of the policy statements clear and understandable?

Some.

Q6: How useful is seeing the policy statements as an underpinning for future guidance? Please provide reasons for your response.

SLAB cannot and must not be the sole arbiters of what is usual or unusual or what is necessary. Solicitors ought also to be the judge of that and given more responsibility and trust in the process. The policy as it stands sets a dangerous precedent. The "necessary" test is oppressive - many things are done which are not "necessary" if judged alone but as part of the whole process can be vital. Clients are human and can be anxious. The solicitor cannot know the content of a client's query before meeting them. Solicitors ought to be given discretion to decide what is and isn't necessary - SLAB are hardly objective in this regard.

Q7: What are your views on how the meetings and letters policy as stated are reflected in current practice?

Oppressive. The human side of the equation is always elided by bureaucrats. It is vital for the sake of harmony/continuity/continued instruction/ to attend some meetings which may not strictly be deemed 'necessary' by SLAB but may be necessary in the context of solicitor/client trust issues or client priorities or background knowledge of a case. Social Work LAC review meetings or MDT meetings are case in point.

Long Confirmatory letters are also necessary for many clients because they are vulnerable and require prompting and reminding. Solicitors should be paid for providing clients with a consolidation and crystallisation of their legal position which is not always clear at the time of the meeting - this often also applies to the solicitor as well. They are not written for the good of the solicitor's health!

Q8. What are your views on how the civil and children's counsel fees policy as stated is reflected in current practice?

None

Q13. To what extent do you agree or disagree with our approach to funding adjustments from the Legal Aid Fund?

Partially agree

Please provide the reason(s) for your answer:

Extra funding for vulnerable clients is necessary

Q14. What are your views on whether the current approach to guidance as set out for criminal legal assistance applications would be beneficial for accounts assessment?

N/A

Q16. Please provide your views on any further aspect of accounts assessment that has not been covered by responses above.

- 1) A streamlined simplified Legal Aid Handbook.
- 2) A more open and trusting approach towards solicitors and increased discretion and flexibility towards work performed with a view to maintaining confidence between solicitor and client and ensuring a better working relationship is maintained thus serving the ultimate aim of justice for all.