



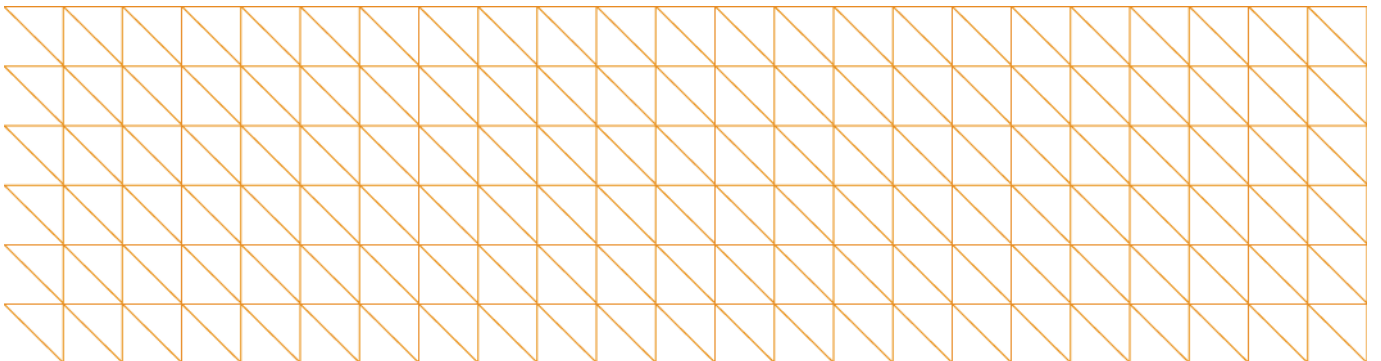
Legal Aid: Funding Reforms

Part Three: Experts' Fees

Response to Consultation

CP(R) 18/09

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Ministry of
JUSTICE

Legal Aid: Funding Reforms

Part Three: Experts' Fees

Response to consultation carried out by the Ministry of Justice.

**This information is also available on the Ministry of Justice website:
www.justice.gov.uk**

About this consultation

To: This consultation was aimed at legal aid providers and others with an interest in the justice system. A response to the main consultation 'Legal Aid: Funding Reforms' was published on 16 December 2009. This did not include the proposals relating to experts' fees. This response is concerned with comments from those who responded solely to those proposals.

Duration: From 20 August 2009 to 12 November 2009

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Contents

Introduction and contact details	3
Background	4
Summary of responses	5
Responses to specific questions	7
Conclusion and next steps	16
The consultation criteria	18
Annex A – List of respondents	19

Introduction and contact details

This document is the post-consultation report for the consultation paper, Legal Aid: Funding Reforms – Part Three: Experts' Fees.

It will cover:

- the background to the report
- a summary of the responses to the report
- a detailed response to the specific questions raised in the report
- the next steps following this consultation.

Further copies of this report and the consultation paper can be obtained by contacting **Jackie Hartley** at the address below:

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This report is also available on the Ministry's website: www.justice.gov.uk.

Alternative format versions of this publication can be requested from Jackie Hartley – see contact details above.

Please note a separate response to parts one ('Crime Lower') and two ('Crime Higher') of the consultation was issued on 16 December 2009. Further copies of this response can be obtained from **Annette Cowell** at the address below:

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Background

The consultation paper, Legal Aid: Funding Reforms was published on 20 August 2009. It invited comments on proposals intended to better prioritise what we spend on legal aid, covering Part One: Crime Lower; Part Two: Crime Higher; Part Three: Experts' Fees and Part Four: Other Issues.

The consultation closed on 12 November 2009 and a response to Parts One, Two and Four was published on 16 December 2009. That report did not include any analysis of payments to experts as, in the light of the comments and information received, it was decided that a separate response on this part of the consultation would be produced early in 2010. What follows is that response.

Part Three of the consultation invited comments on making changes to payments made to experts in both criminal and civil cases. It proposed:

- In the short term – to set maximum rates in crime and civil cases through amendments to the relevant Funding Orders made under the Access to Justice Act 1999, with limited provision for exceptions.
- In the longer term –
 - To seek to reduce expenditure by at least 20% subject to further work on experts' fees/rates.
 - To explore the possibility of paying the same rates to expert witnesses in both criminal and civil cases based on the guideline rates which currently exist for payments to expert witnesses in criminal cases from central funds.

This consultation was intended to be the first stage of a longer-term strategy aimed at controlling costs in this area. Currently, insufficient data exists to model fixed fees for experts that would enable all of the relevant issues to be taken into account. This is because the Legal Services Commission (LSC) does not commission expert witnesses directly; this is done by solicitors and is paid for as a disbursement on a solicitor's bill. The LSC records the total amount spent on disbursements per year, but does not record different types of disbursement separately and it is therefore difficult to estimate expenditure accurately. Part of our strategy in consulting, therefore, was to get a better understanding of the market place and what it is we purchase. We also wanted to seek views on whether setting fixed hourly rates or fees was an effective first step towards controlling costs whilst maintaining a sufficient supply of good quality experts.

This report summarises the large number of responses which commented on the proposals and provided new information. The consultation process will influence further development of the policy and proposals.

A list of respondents is at Annex A.

Summary of responses

1. We received a total of 270 responses to Part Three of the consultation paper on experts' fees.¹ Of this number 136 were from individual experts and representative bodies and 128 were from barristers and solicitors (including representative bodies). We received a total of 6 comments from members of the public and other respondents.
2. Of the experts, the following professions were represented:
 - Child and family psychologists
 - Accountants
 - Architects
 - IT specialists
 - Engineers
 - Forensic and investigative experts
 - Medical experts (including clinicians, psychiatrists and pathologists)
 - Mixed expertise (including representative bodies and training organisations)
 - Other – including immigration law experts, agricultural valuers, social anthropologists
 - Personal injury experts
 - Transport and road traffic accident investigators.

The majority of respondents were either psychologists or medical experts. Other respondents were fairly evenly spread across the rest of the professions. We are familiar with concerns raised in previous discussions about the cost, quality and supply issues concerning expert witnesses. The responses were analysed to gain a greater insight into the complexities of the experts' market and to hear directly from respondents about the issues and challenges which impact on their ability to provide quality expert witness services to the courts in legally aided work. We sought evidence of the likely impact of our proposals and whether they would affect distinct groups of professionals in particular.

3. We intend to continue to work with stakeholders to take forward any future policy development arising from this consultation response.

¹ This figure includes a few responses with multiple signatories, including a letter signed by 277 individuals from the Consortium of Expert Witnesses to the Family Courts (35 of those also sent an individual response).

4. In summary, the majority of respondents considered that the proposed hourly rates set out in the consultation paper were too low. Two respondents said that they could 'manage' on an hourly rate of £80 to £180 but any who agreed that they could work within the proposed rates said they would only do so conditionally. For example, they would first require issues such as payment for delayed or cancelled court attendances to be addressed. However, many respondents said that they would be unable to provide a service at all at the proposed rates. Some experts, including full time forensic accountants and those doing medico-legal work, were concerned that they would not be able to generate sufficient income at the proposed rates to cover the overheads of their business. Concern was also expressed about the increasing risk of criticism from the media, the public and the risk to professional reputation by undertaking this work. There was a feeling that the consultation proposals had been made on the assumption that expert witnesses always had full time jobs to support their income, which was not always the case. There were also concerns that if low rates were implemented, it would lead to a loss of quality and supply as many experienced professionals would simply refuse to undertake the work.

Responses to specific questions (questions 7–15 only)

The following deals with Part Three of the original consultation only, as relates to the proposals on experts' fees. Responses to questions 14 and 15 relate to the impact assessment for the consultation in its entirety so are reflected here. Question 16 asked for alternative proposals to reduce criminal legal aid expenditure and respondents to the experts questions also responded to this but their answers have been incorporated into the main consultation response which was published on 16 December 2009. Responses to the consultation in general and not specific questions are listed under 'Other'.

Question 7: Do you agree that the proposed hourly rates based on current guidelines are a reasonable starting point?

5. The majority of respondents said that the proposed rates were too low to be a reasonable starting point. These included the following:
 - Psychologists and psychiatrists involved in family work
 - Forensic accountants
 - Forensic architects
 - Forensic computer specialists
 - Forensic engineers
 - Specialist medical (cardiologists, neurologists, cardiothoracic)
 - Experts' representative bodies.
6. Very few respondents indicated that they either already operated or could operate within the rates proposed. These included two forensic accountants and a forensic road traffic accident expert. The latter charged £80 per hour but wanted clearer guidelines on what the LSC will accept in terms of specialisation and experience.
7. Suggested rates ranged from £80 to £180 per hour at the bottom end of the scale and £200ph at the top. Most respondents who agreed that they could work within proposed rates did so conditionally (for example, court attendance time had to be tightened up; most had concerns about cancellation and particularly that they were not getting paid for time wasted if cases were cancelled). Some suggested they work directly to the LSC rather than being paid via the commissioning solicitor. The suggestion was made that fees for reports be capped rather than having an hourly rate.
8. Some respondents agreed that there should be a fee structure/banding rate in principle but thought that the proposed rates were too low and did not account for complexity in cases. Experts working in the field of child psychology said that an expert may charge a higher rate for a complex and long 75 page psychiatric report as opposed to a good quality 3 page orthopaedic report. Some respondents thought that the proposed rates may be a starting point for simple reports or fast track cases but were inadequate for complex, high value, multi-track cases. The majority of

experts thought that differential fee rates were appropriate, given the considerable differences in the levels of difficulty and commitment required. Some felt that the proposal to cap rates was arbitrary and took no account of qualifications or experience. They thought that hourly rates should be set at a level appropriate to the complexity of instructions given by the solicitor and the experience of the expert required.

9. Many experts made the point that medico-legal work was done in their spare time and that they still had office overheads to cover. They thought that the proposed rates were not 'commercial' for leading experts in the field and that they could easily get higher rates elsewhere without having to take on the pressures of court work. In connection with that, most respondents also thought that the proposed fees for court work were too low. They suggested that this could be mitigated with better organisation from HM Courts Service (HMCS) and solicitors.
10. Generally, respondents felt that the proposed rates were lower than those currently agreed by the LSC but that the current rates were already lower than private rates. Some felt that a further reduction in the hourly rate granted in LSC funded defence work would undermine the MoJ's aim of there being equality in rates between defence and prosecution experts.
11. Most barristers and some solicitors thought the proposed rates were too low, particularly in terms of securing experts for the defence. Some solicitors thought the rates were too high, and expressed concern at how their fees compare with experts' fees now.
12. The Bar Council felt unqualified to comment on the proposed rates but said that it was essential to compensate experts for time spent out of their usual work, for example, the costs of engaging a locum.
13. The Association of Lawyers for Children (ALC) commented that the proposed rates didn't reflect the wide spectrum of work in family proceedings, ranging from a simple cognitive assessment for one adult to a comprehensive family assessment. Similarly they said that medical assessments can vary a lot in terms of medical and clinical knowledge required. The ALC also felt that there should be further refining of the categories of expert to which the hourly rates apply.
14. The Law Society (TLS) said the rates seemed reasonable but may sometimes be insufficient for experienced experts. They commented that there should be more evidence gathering to back up the rates and more work done with practitioners on defining exceptional criteria for exceeding the rates. Both the Legal Aid Practitioner's Group (LAPG) and TLS commented that some areas with fewer experts may command higher rates, such as computer and firearms evidence.
15. The ALC referred to the important role of the court in assessing experts' costs in family proceedings, which is endorsed by the Public Law Outline (PLO). They said that the Family Justice System should be better resourced to be more rigorous in its scrutiny of the need for and the cost of experts.

Question 8: Are there situations when this would not be appropriate? If so, what would they be and why?

16. The majority of respondents felt that the proposed hourly rates were not appropriate for all types of expert work, in particular complex work such as cases involving vulnerable children and families. They thought that access to experienced experts could make a massive difference to both claimant and defendant and lack of access could lead to an 'inequality of arms' for the legally aided client. Respondents felt that savings in fees would be made at the expense of a fair hearing.
17. Many psychologists and medical experts thought that the proposed rates were not suitable for highly paid consultants. For example, psychiatric specialists could be unwilling to assist with long or complex cases which were not sufficiently remunerated and could take them away from their practice. Similarly, accountants said that the proposed rates were nowhere near what they would earn in their usual work.

Question 9: Do you agree that it is appropriate to pay the same rates for the same type of expert in both civil and criminal cases? If not, why and what would the difference be?

18. Some respondents felt unable to comment on this. Those that did were divided. Some considered that hourly rates should be the same for both civil and criminal cases. Others thought that civil cases should be remunerated more highly as they could be more complex and require greater amounts of preparation. The British Psychological Society said that the rates should be set according to the complexity of instructions regardless of type of proceedings. They felt that lowering the rates in line with criminal proceedings would be counter-productive and would cause supply problems.
19. Other respondents thought that the idea was good in principle as the same work called for the same expertise. However, they suggested that there should be a range of rates to mitigate the risk of inequality of arms. Personal injury experts felt that the legally aided claimant in medical negligence cases would be disadvantaged by the proposed change in fees if criminal and civil fees were to be equated.
20. Some psychiatrists said they should be paid the same for legally aided work as for non-legally aided and championed equal pay for equal effort. Psychiatrists also suggested that criminal rates should be increased to match civil. They recommended that the model used in civil work should be used, where the market sets the rate. The UK Register of Expert Witnesses concurred with this, suggesting that the MoJ should use the free market that operates in the civil justice system to set rates. If they were to be discounted for legally aided cases then the discount should be set at a level which retains sufficient supply.
21. Some respondents thought that as the measure of proof was different in civil and criminal cases the extent of work required to produce an adequate expert opinion was different. An expert in architecture felt that experts should not be constrained by a budget which prevents full examination of technical issues.

22. Solicitors, barristers and legal representative bodies generally agreed with the principle of paying the same rates in civil and criminal. Some commented that criminal rates should be higher as there was more at stake, for example, loss of liberty. However, TLS commented that many decisions in criminal cases don't have the same long term consequences or amount of paperwork as decisions made in civil cases.

Question 10: What are the circumstances when prior authority would need to be sought to go above the proposed rates?

23. Most respondents felt that as proposed rates were too low, prior authority would need to be sought on a regular basis. Child and family psychologists thought that any case involving a child up to 19 years old should be open to prior authority being sought. Architects thought that complex matters requiring specific tests should qualify.
24. Some respondents thought that prior authority would be the essential safety valve to be used if fees were capped. Others thought that the courts were better placed than the LSC to make decisions on prior authority
25. The Consortium of Expert Witnesses to the Family Court (recorded hereafter as 'The Consortium') suggested that seeking prior authority would become frequent in family cases if the rates were capped.
26. The British Psychological Society viewed prior authority as an 'unsophisticated' tool. They thought that it would reinforce disincentives to engage in work as the majority of psychologist's work would fall into the 'exceptions' category. They suggested proper banding of fee rates instead.
27. Legal representative bodies commented that prior authority should be sought where a matter was urgent and an expert had not been found within the required timeframe. Other factors included complicated or unusual work and issues of local supply.

Question 11: Are there any circumstances where fixed fees would be appropriate, for example DNA and GP reports? What should the fixed fees be?

28. Most respondents thought that fixed fees could be appropriate but only for simple, factual reports. Personal injury experts felt that in complex cases, fixed fees were likely to deny access to relevant witness evidence. The UK Register of Expert Witnesses thought it unlikely that the LSC would be funding a sufficient volume of cases that would be appropriate for fixed fee payments to permit this approach. They thought that the introduction of fixed fees would not make enough of an impact to control spending.
29. The Consortium thought that fixed fees were not suitable for family work as it was generally too complex.
30. Barristers and solicitors generally gave a positive response in favour of fixed fees for some work, such as DNA, GP reports and routine drug and alcohol tests.

Question 12: Are there any particular types of experts who may cease to do the work for the proposed rates? Who are they and what can be done to address this?

31. Forensic architects and surveyors said that the proposed rates were too low to attract senior professionals. NHS Consultants who were highly sought-after and did not need to do legal aid work would also be reluctant to continue. The majority of respondents said that if the current rates were maintained (i.e. with experts' fees continuing to exceed the guideline rates in the majority of cases) or the time taken to deliver a sufficient report reduced then this would provide a solution.
32. Respondents generally felt that the proposed rates would not make up for the elements of the work which caused inconvenience to them, for example, cancellations, delays and risk of being discredited. Well-trained experts who were still in active practice and who would be prepared to continue with this work (such as forensic child psychiatrists and paediatricians working in child protection) said they would cease the work if the proposed rates were implemented. They suggested setting higher hourly rates.
33. The majority of respondents said that supply would become a problem if the rates were set at the proposed level. The Family Law Bar Association (FLBA) supported this by commenting that there was a 'well recognised' shortage of experts in family cases which was 'a national problem'. Similarly, the Consortium said that capping fees at this level would reduce the supply of experienced experts, at a time when the family courts were already in crisis. Some respondents reported problems of experts refusing to work at current rates, leading to solicitors applying for prior authority and to delays and postponement of trials.
34. Personal injury experts said that many care and equipment experts who earn far more than the quoted rates in their own practices would give up the work. Experts would not be prepared to 'go the extra mile' to acquire expert witness skills if the financial rewards were insufficient.
35. Respondents thought that more experienced consultants would leave this work to the less experienced and quality would suffer as a result. They said that this would inevitably create a two-tier system of experts.
36. A team of psychologists working exclusively with public law cases, who are a multi-disciplinary team of the type recommended by 'Bearing Good Witness'² (BGW) said that if the fees were reduced they would have to close their service. They suggested that to make the service viable at the proposed rates would mean having to do less detailed assessments but these would not be sufficiently comprehensive to answer questions put to them in letters of instruction.

² Bearing good witness: proposals for reforming the delivery of medical expert evidence in family law cases (Department of Health, 2006)

37. The Consortium said that BGW arose because the courts were finding it difficult to engage a sufficient number of experts. They also pointed out that the LSC has contracted with 'Alternative Commissioning of Experts' (ACE) pilot groups at significantly higher rates than those proposed in this consultation and suggested that the proposed fees could force many NHS Trusts to give up this work.
38. As well as psychologists and medical experts, respondents also considered that interpreters, computer, forensic, and engineering experts would give up this work.
39. Both the ALC and TLS commented that it was important that experts should still be in day to day practice, as those experts provided the best services to the courts.

Question 13: What other factors lead to issues with supply in some areas? What can be done to address these?

40. Respondents made the point that suitably trained and experienced child experts were mostly located in cities with teaching hospitals. In rural areas a good relationship with the judiciary may encourage experts to take on the work but not without adequate remuneration. They felt that the dearth of child experts was also due to increased fear of being discredited.
41. Many of the respondents said that the best experts were those still in practice or with up to date experience in their field. Care and equipment experts have a narrow but in depth expertise. Supply depends on the appropriate expertise for the case; proximity to the individual to be assessed and ability to prepare a report in the timescale required by the instructing lawyer. In order to do expert witness work, respondents said that many experts had to take a holiday or unpaid leave from their day job. Once disruption to normal life became a common feature, it was usual for experts to reduce their caseload which could then affect supply. The disruption was exacerbated by cancelled court hearings and the need to fit work in around the 'day job'. Respondents said that appropriate rates would help serve as compensation.
42. Other factors raised by respondents were the shortage of trainees interested in medico-legal work and the view that many construction professionals were not interested in this work. Regional salary and living cost variations also affected supply. Respondents suggested enhanced travelling disbursements could mitigate this.
43. Respondents also reported that NHS Trusts require that nine out of ten of the week's sessions are allocated to programmed, non expert witness-related activities, with the consequence that many did court work during their annual leave. Respondents said that there was an insufficient pool of doctors who were willing to act as medical expert witnesses. Where there is no succession planning experienced doctors retire with no-one to take their place. They suggested providing appropriate training at undergraduate and postgraduate level.

44. Some respondents felt that a climate change in the attitude towards experts would help and that courts and lawyers should take responsibility for experts they instruct. Some respondents were put off expert witness work by the potential for stressful cross-examination and media reporting on family court proceedings. Respondents proposed that trainees should be encouraged to accompany more experienced colleagues to court. In line with this, respondents felt that being an expert witness was not a professional career, rather it was an option available to them because of their professional achievements. They expressed the opinion that experts were being threatened with excessive and inappropriate regulation and demands to have knowledge of areas of the legal process outside their expertise. Their view was that treating the cost of expert witnesses as a problem in isolation from other deficiencies in the system would not work.
45. The Consortium said that the shortage of experts was due to the gruelling and time-consuming nature of Family work, which often required working unsocial hours. They suggested that if senior experts gave up this work, junior experts would follow. Restrictions on the travel rate would also create a significant disincentive. They suggested a joint exercise with a selection of experts from various disciplines to arrive at a 'realistic' fee structure and a regular fee review thereafter; direct payment from the LSC to avoid solicitors keeping them waiting for pay; letters of instruction to be concise and routine feedback on performance.
46. There were fewer responses to this question from barristers and solicitors. Many said they did not know. Some commented that experts were often appointed from outside solicitors' practice areas, and that this led to budget issues surrounding payment for travel and expenses.

Question 14: Do you agree with the Initial Impact Assessment? Do you have any evidence of impacts we have not considered?

47. There was a low response rate for this question. Some, including legal representative bodies, were concerned about the proposals being implemented on the grounds that there had not been a sufficient impact assessment or indeed any impact assessment at all. The Bar Council added that the consultation document was flawed and failed to define and describe properly its objectives and the proposals.
48. Psychiatrists suggested that legally aided clients in medical negligence cases would be disadvantaged as they would get lower quality experts.

Question 15: Do you have any information or views on the Equality Impact Assessment? Do you consider that any of these proposals will have a disproportionate adverse impact on any group? How could any impact be mitigated?

49. Again, there was a low response rate to this question. Personal injury experts said that it was difficult to comment owing to a lack of data from the LSC. Legal Services Research Centre (LSRC) diversity data does not currently include expert witnesses. The LSRC said they would welcome the opportunity to be consulted as a key stakeholder on diversity.

Other – Responses not linked to specific questions

Cancellation Concerns

50. Most respondents strongly disagreed that cancellation fees be removed from scope, although such measures have already been implemented in some family work as part of previous consultations. One forensic psychotherapist was not concerned about this as it was not their practice to charge a cancellation fee for court. One respondent suggested invoicing for a full day if a case goes short. NHS consultants charge cancellation fees. They can usually find other work to do but as work gets more under control this may not be the case.
51. Respondents reported frequent, late notice cancellations by the courts which could result in wasted preparation and the loss of a day's pay as it was too late to arrange other work.
52. The Consortium said that the proposed abolition of cancellation fees failed to recognise that missed appointments are a regular feature of work with families who come before the court. If experts could not charge for missed appointments then it would not be financially feasible for them to offer further appointments.
53. Other respondents made the point that recouping of cancellation costs is established practice in other professional activities.

Travel Concerns

54. Some respondents said that travel rates should be no less than 75% of the professional fee rate plus travel costs and subsistence. Others said they could live with travel not being paid if they were at court for a full day so that their daily rate would compensate. Alternatively, if the expert could only invoice for each hour spent at court, they should be permitted to include travel time at the usual half the hourly rate.
55. One respondent said they did not charge for travelling time spent doing fee earning work. However, they did charge for time travelling only and not time in-between.
56. One suggestion was that travel rates could be raised to £50 in line with current rates for travel in criminal work, but that even this would be too low. Experts needed to travel to see clients.
57. The point was made that we seemed to presume by capping travel that experts could work while travelling whereas this is often not the case. Experts felt that low rates could lead to them being unwilling to travel which would discriminate against parents with limited resources and childcare responsibilities who would find it difficult to travel themselves. This would affect regional supply and also disproportionately affect work like assessments in secure establishments such as hospitals and prisons.

Quality/Savings

58. Generally, the message from respondents was that capping rates would lead to less experienced experts doing the work with a drop in quality which will give rise to more expense in the long run. Rate capping will exclude 'real' experts and radically reduce quality. This would also reduce access to justice for the legally aided client. On the other hand, it was suggested that enhanced travel disbursements would help supply. Respondents felt that good experts could cost more but could save money in the long run by, for example, reducing the need for hearings by the provision of quality expert evidence.
59. Some respondents felt that quality no longer seemed to be an issue as long as costs could be cut and quotas delivered. They said that the MoJ might consider having an approved list of experts but will need to pay more than is currently proposed.
60. There was a view that under the proposed rates, the cheapest quote would win work which would lead to the least suitable professionals competing for the most complex cases. Respondents said there was a need to identify the minimum standards and level of experience and pay accordingly.
61. Some respondents indicated that fee caps remove the market mechanism and threaten to preferentially remove the highest performers from the work.

Conclusion and next steps

We received a good response to this consultation and we are pleased that so many knowledgeable respondents provided constructive input to our thinking. The majority of respondents were clearly against imposing either fixed fees or the suggested hourly rates on the basis of our current knowledge. There was a very strong message from all categories of professional expert witness that if inadequate remuneration rates are imposed, this would lead to more experienced practitioners refusing to undertake the work, potentially leading to access and quality problems across England and Wales. There was however general recognition that something should be done to regulate rates charged as they were often variable and too high, although this was sometimes attributed to poor, or unclear instructions received from solicitors leading to lengthy or unnecessary work.

It was clear that several expert groups would be keen to assist us in gaining a better understanding of their work and better control over both price and quality. We therefore propose to:

- Carry out a data gathering exercise to increase our understanding of the type of work experts undertake and what current rates are paid for this.
- To help analyse and validate the findings of this exercise – and work towards establishing fixed fees and hourly rates, where appropriate – we propose to set up a working group including expert witness representative bodies and other interested stakeholders.

We intend that this work should be carried out over the next few months and we aim to publicise regular updates on progress.

Consultation Co-ordinator contact details

If you have any complaints or comments about the consultation **process** rather than about the topic covered by this paper, you should contact Gabrielle Kann, Ministry of Justice Consultation Co-ordinator, on 020 3334 4496, or email her at consultation@justice.gsi.gov.uk.

Alternatively, you may wish to write to the address below:

Gabrielle Kann
Consultation Co-ordinator
Ministry of Justice
102 Petty France
London SW1H 9AJ

If your complaints or comments refer to the topic covered by this paper rather than the consultation process, please direct them to the contact given under the **How to respond** section of this paper at page 3.

The consultation criteria

The seven consultation criteria are as follows:

1. **When to consult** – Formal consultations should take place at a stage where there is scope to influence the policy outcome.
2. **Duration of consultation exercises** – Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
3. **Clarity of scope and impact** – Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. **Accessibility of consultation exercises** – Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. **The burden of consultation** – Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. **Responsiveness of consultation exercises** – Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. **Capacity to consult** – Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

These criteria must be reproduced within all consultation documents.

Annex A – List of respondents

Andy Horsman	Professor Terry Feest	Lesley Bates
Arthur Michael Robinson	Ed Haygarth	Tim Spencer QC
Catarina Sjolin	Nicholas Diable	Helen Mason
Peter Harding-Roberts	Dr Iain Fielden	David Matthew
Ahimsa (Safer Families) Ltd	John Ibbotson	Wendy Williams
Caroline Woodley	Lee Davies	Nigel Rumfitt QC
Andrew Storch	Dr Rajesh Munglani	Mr Sandy Mackay
Andrew Hare	Laurence Kench	Dr Keith J B Rix
Mrs Jean Evans	Christopher Kinch QC	Nicholas Jones
Matthew Subbiani	Roger Robson	General Medical Council (GMC)
Dr Paul Millard	Jonathan Lennon	Richard Dawson
Dr Yvonne Walker	Independent Social Work Associates (ISWA)	Graham Rogers
Dr Eileen Vizard	Dr Gary Wannan	Joseph Hart
British Naturism	Dr Shazad Amin	Maureen Baker QC
Dr Linda Montague	Dr Huon H Gray	Anthony Branley
Philip Kazantzis	Kevin Lowry-Mullins	Brett Williamson
Rob Griffiths	British Association of Social Workers	Felicity Gerry
Justices' Clerks' Society	Evelyn Clark	Nicholas Clarke
Ethu Crorie	Tony Marshall	Chris Maloney
Owen Davies QC	Jeremy Lasker	Peter Dear
Adam Vaitilingam	Norman Johnson	Immigration Law Practitioners' Association
David Bird	Dr David H T Scott	The Expert Witness Institute
Civil Sub Committee of the Council of Her Majesty's Circuit Judges	Grahame Goodyer	Andrew Molyneux
Association of HM District Judges	Michael Foy	David Siebler
	Derek Hance	Robin Hill
	Carl Gray	Neil Stoodley
		Peter G Ludlow

Nigel Power	Jason Wallace	Michael Goldwater
Peter Sommer	Jon Hullis	Fiorella Brereton
Conor Dufficy	Andrew Wesley	Jeffrey Bannister
Lynn Tayton QC	Janet Smith	Birmingham Law Society
Penny Carne	Lauren Manuel	David Lawson
Allison Summers	Martin Hadley	Medical Defence Union (MDU)
Nicholas Valios	Irene Tolley	Jennie Walsh
Rebecca Crane	Huw Langley	Cleo Van Velsen
Kevin Barry	Keith Borer Consultants	Dr G E P Vincenti
Allan Maidment	Roger Wilson	Martin Rackstraw
Michael Kopelman	Ed Boyce	Vantis plc
The Legal Services Commission (LSC)	Dianne Lamontagne	Michael Wheeler
Margaret Sheeran	Michelle White	Christopher Donnellan
Legal Committee of the Council of Her Majesty's District Judges (Magistrates' Courts)	David Gittins	Wendy Westley
Keith Middleton	Duncan Burtwell	Lesley Bates
Roderick Jones	Nick Darwin	Gregory Stewart
Frances Oldham QC	Peter Belshaw	Katherine Blackwell
Jonathan David	Joanne Smith	Lisa Sawyer
James Pickup	Graham Neil	Peter Vialls
Christopher Hogg	Martin Moore	John Scruton
Winston Hood	Richard Emery	Tony Meisels
Samantha King	Nick Walsh	Craig MacGregor
Northumbria Local Criminal Justice Board	British Medical Association (BMA)	Scott Ingram
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