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Northern Ireland Court Service  
Very High Cost Criminal Cases  
Impact Assessment Summary (Annex D)

June 2008

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## Impact Assessment Summary: Intervention & Options

<b>Department/Agency:</b>  Northern Ireland Court Service	<b>Title:</b>  Impact assessment of introducing a system of contracts for very high cost cases at the Crown Court in Northern Ireland and introducing new rates of remuneration.	
<b>Stage:</b> Consultation	<b>Version:</b> 1	<b>Date:</b> 23 May 2008

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### What is the proposal under consideration? Why is government intervention necessary?

It is proposed to introduce a system of contracting between the NI Legal Services Commission (NILSC) and solicitors and advocates representing legally aided defendants in very high cost cases (VHCC) at the Crown Court. It is also proposed that new rates of remuneration would also be introduced. Whilst the NILSC is responsible for administering legal aid, this is done through a statutory scheme prescribed by the Legal Aid for Crown Court Proceedings (Costs) Rules (Northern Ireland) 2005 (the 2005 Rules). To introduce the new system and rates, it would be necessary for the Court Service to amend the 2005 Rules. Introducing the system of contracts will assist the NILSC to forecast expenditure more accurately and produce some savings in the legal aid budget for VHCCs. This will be achieved through the lower rates of remuneration (to levels being applied in England & Wales) and through the eradication of duplicated work, the prevention of unnecessary work and by helping to ensure that work is carried out by fee earners of an appropriate level.

### What are the policy objectives and the intended effects?

The introduction of contracting will facilitate the NILSC in better forecasting expenditure and exerting an enhanced level of control over costs to obtain better value for money from funds allocated to legal aid.

**What policy options have been considered? Please justify any preferred option.**

- 1. No intervention.**
- 2. Implement changes to the 2005 Rules.**

The preferred option is to implement changes to the 2005 Rules to introduce a system of contracting for VHCCs and the new rates of remuneration, following proper consultation with the legal profession and other interested parties in Northern Ireland.

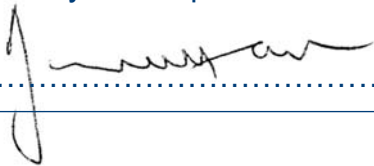
**When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effect?**

Provisions in the 2005 Rules require their operation to be reviewed every two years. The system of contracting would, therefore, be reviewed as part of the wider review process biennially. However, as there is a degree of uncertainty as to some of the future costs of the proposal, a policy review will be conducted one year after implementation.

**Ministerial Sign-off** for consultation stage impact assessment.

**I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.**

Signed by the responsible Minister



Date..24 June 2008.....

## Summary: Analysis & Evidence

**Policy option: 1-2**

**Description:** Pre-consultation summary of options

### **Annual Costs**

**One-off** (Transition)

**Yrs**

**£0**

Description and scale of **key monetised costs** by 'main affected groups'

Solicitors and barristers working on very high cost cases at the Crown Court.

### **Average annual cost**

(excluding one-off)

**£290,000**

Considered to be nil in relation to the contracting process, given that any additional work required by contracts will be paid for by NILSC. In terms of the new rates of remuneration, it is anticipated that there will be a reduction in the fees paid for VHCCs and effectively this is a cost to solicitors and advocates. The rationale behind the estimate is set out in the Evidence Base (for summary sheets) section of this assessment. This matter will be kept under review and details of any further costs identified during the consultation period (that are not to be met by NILSC) will be included in this assessment following that process.

An estimate of the additional costs to be met by NILSC is set out in the Evidence Base (for summary sheets) section of this assessment.

**Total Cost (PV) £275,500**

### Other key non-monetised costs by 'main affected groups'

None.

**Annual benefits**  
**One-off** (Transition)  
**Yrs**  
**£0**

Description and scale of **key monetised benefits** by 'main affected groups'

Solicitors and barristers working on very high cost cases at the Crown Court.

**Average annual benefit**  
(excluding one-off)  
**£81,500**

The rationale behind the estimate of the additional benefits to be obtained by solicitors and barristers is set out in the Evidence Base (for summary sheets) section of this assessment.

**Total Benefit (PV) £77,500**

### Other key non-monetised benefits by 'main affected groups'

Early and regular payment of legal aid fees to solicitors and barristers working on very high cost cases at the Crown Court.

### Key assumptions / sensitivities / risks

None identified.

Price Base	Time	Net Benefit Range	Net Benefit (NPV)
Year N/A	Period	(NPV)	Best estimate)
	Years N/A	£ N/A	£ N/A

What is the geographic coverage of the policy/option?	Northern Ireland
On what date will the policy be implemented?	December 2008
Which organisation will enforce the policy?	NILSC
What is the total annual cost of enforcement?	£120k
Does enforcement comply with Hampton principles?	Yes
Will implementation go beyond minimum EU requirements?	N/A
What is the value of the proposed offsetting measure per year?	N/A
What is the value of changes in greenhouse gas emissions?	N/A
Will the proposal have a significant impact on competition?	No

	Micro	Small	Medium	Large
Annual cost per organisation (excluding one-off)	N/A	N/A	N/A	N/A
Are any of these organisations exempt?	No	No	No	No

**Impact on Admin Burdens Baseline** (Increase – Decrease)

Increase of £ N/A      Decrease of £ N/A      **Net impact** £ N/A

## **Evidence Base (for summary sheets)**

**Proposal** - the introduction of a system of contracts for VHCCs at the Crown Court in Northern Ireland, with lower rates of remuneration.

### **Purpose and intended effect of measure**

#### **Objective**

To introduce a system of contracts, including lower rates of remuneration, that facilitates the effective management of VHCCs at the Crown Court by the NILSC enabling it to forecast expenditure, deliver better value for money and bring an enhanced level of control over these types of case.

### **Option appraisal**

#### **Options**

Option 1 - No intervention.

Option 2 - Implement changes to the 2005 Rules to facilitate contracting and introduce the new rates of remuneration.

Option 1 would mean that the NILSC would continue to face greater difficulties in the management and control of expenditure in VHCCs and the (short-term) forecasting of future expenditure commitments. It would also negate the opportunity to deliver better value for money in the spending of public funds.

Option 2 is the recommended option and should enable the objective set out above to be met by the NILSC.

### **Costs and benefits**

#### **Costs associated with the reduced rates of remuneration**

To make an assessment of additional annual costs incurred by solicitors and advocates in VHCCs at the Crown Court arising from the new rates of remuneration, it would be possible to calculate the fees being paid currently in this type of case and apply a reduction based on the (average) percentage decrease in the new fee rates. Whilst

this will provide an estimate of additional costs, it assumes that the number of cases being managed annually, the amount of work involved in the cases, the categories of cases and, therefore, the rate of remuneration, the fee earners involved etc will all remain unchanged year on year. Whilst this is unlikely to be the case, this is still considered to be the most appropriate means of arriving at an estimate of the costs involved.

From a data source of 18 completed VHCCs, the average duration of cases and the average fees paid were calculated at 16.5 months and £177k respectively. This indicates total annual expenditure of £2,317k on VHCCs. Where this figure is reduced by 12.5%, that is, the estimated average reduction in fee rates for case preparation work (the main area of cost), total annual expenditure reduces to £2,027k indicating that the cost to solicitors and advocates will be in the region of £290k annually.

### **Costs to be met by NILSC in servicing system of contracts**

In arriving at a total figure for these additional costs, which will ultimately be met by the NILSC, the following assumptions have been applied.

- There will be 20 cases annually in Northern Ireland
- Each case will have 1 initial case/stage plan meeting plus 3 further stage plan meetings annually
- These meetings will last 1 hour and be attended by a Senior Solicitor, a Solicitor, Queens Counsel and a Led Junior Counsel
- The Senior Solicitor acting as Case Manager will attend 4 meetings with the NILSC Contract Manager annually to negotiate the task list with these meetings lasting for 2 hours
- Cases will fall within Category 1 or 2 and the hourly rate to be applied is the average of the two rates, namely £129 for Senior Solicitors and Queens Counsel, £114 for solicitors and £82 for Led Junior Counsel
- Appeals against decisions made by the Contract Manager will be 20% (16) of all task lists negotiated
- The Appeals Authority will cost the Equivalent of 3 lawyers drawn from a panel of solicitors and counsel who will be paid a daily fee of £320 or a half daily fee of £160
- Of the 16 appeals annually, half will attract a full day fee whilst the other half will attract a half day fee

These assumptions have mainly been based on information on the contracting process from the LSC in England and Wales who have been operating the system for a number of years.

## Cost calculation

Activity	Type	Hours/days	Rate £	Total £
Case/stage plan meetings	Senior Solicitor	80h	129	10,320
	Queens Counsel	80h	129	10,320
	Solicitor	80h	114	9,120
	Led Junior Counsel	80h	82	6,560
Task list meeting	Senior Solicitor	160h	129	20,640
Appeal hearings	Appeal Authority	12d	960	11,520
			<b>Total</b>	<b>68,480</b>

### Benefits to solicitors and advocates from the early payment of fees

As part of the process of operating under contracts, solicitors and advocates will receive staged payments of their fees following the sign off of completed stage plans (roughly every three months). This is different to the present situation where solicitors and counsel acting in VHCCs have to wait until the completion of the case before submitting their claims for assessment and payment. This means that payment for some of the work undertaken is often paid years in arrears. The earlier payment of fees will provide benefits to solicitors and advocates in that they would be able to clear debts or avail themselves of investment opportunities.

Again, from the data source of 18 completed 'very high cost' cases it was derived that there would be 5 staged payments during the lifecycle of an average case. The average fee was divided by 5 to arrive at the first and subsequent stage payments (£35,320) and compound interest rate of 5% per annum was applied to that figure and the other staged payments up to the completion of the case. This indicated that benefits in the average case would be £5,603, whilst over 20 cases, that is, the anticipated annual caseload, benefits to solicitors and advocates would be £112,060. This figure reduces to £81,500 in relation to the benefits to be obtained in a calendar year.

### Equity and fairness

Contracts and the new rates will apply equally to all solicitors and advocates working on VHCCs in Northern Ireland.

## **Consultation with small business: the Small Firms Impact Test**

Whilst it is considered that the introduction of contracting will have no effect on small solicitors' practices, this matter will be considered further during the proposed consultation. Where impacts or unintended consequences on small practices are identified as part of this process, further work will be undertaken to assess fully the impacts or consequences.

## **Competition assessment**

The introduction of contracting will have no effect on the granting of legal aid by the court and will, therefore, not impact on competition.

## **Enforcement and sanctions**

Contracts will be managed by staff in a Very High Cost Case Unit within NILSC who will be responsible for ensuring that the 2005 Rules and the terms of the contracts are complied with. Both the 2005 Rules and the contract contain a range of sanctions to ensure compliance.

## **Consultation within government**

The relevant interested body, that is, the Public Prosecution Service of Northern Ireland, has been involved in the development of this proposal and will be consulted further as part of the proposed consultation.

## **Public consultation**

Copies of the consultation papers, the equality impact screening form and this assessment will be made available to the public in hard copy on request or electronically via websites maintained by the NILSC and the Court Service. The consultation period will be in excess of 12 weeks.

## **Summary and recommendation**

The recommended option will facilitate the effective management of VHCCs at the Crown Court by the NILSC enabling it to forecast expenditure, deliver better value for money and bring an enhanced level of control over these types of case. This will be achieved by amending the 2005 Rules.

## Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

Types of testing undertaken	Results in Evidence Base?	Results annexed?
Competition Assessment	No	No
Small Firms Impact Test	No	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	No	No
Rural Proofing	No	No









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