

Title: Legal Aid Reform: Provision of Telephone Advice Lead department or agency: Ministry of Justice Other departments or agencies:	Impact Assessment (IA)
	IA No: MoJ 032
	Date: 15 November 2010
	Stage: Consultation
	Source of intervention: Domestic
	Type of measure: Other
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Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

Although the principal driver for reform is financial, there are also compelling reasons for reforming legal aid. Since its inception the scheme has expanded beyond its original intentions. It now costs over £2bn a year, and, while comparisons are not straightforward, we believe is generous compared with similar schemes in other countries.

The Government is responsible for the terms and conditions of access to legal services funded by the legal aid budget, hence government intervention is necessary in order to make any changes.

What are the policy objectives and the intended effects?

The key objectives and intended effects are:

- to streamline and simplify the process for people seeking legal advice for common civil problems and provide more immediate access to specialist advice for clients eligible for legal aid;
- to ensure that clients seeking legal aid services are provided with high quality advice and information delivered through the most appropriate and efficient channel;
- to ensure that clients are routed to the service best suited to resolving their problem, including Alternative Dispute Resolution options; and
- to secure better value for money in respect of legal aid expenditure.

What policy options have been considered? Please justify preferred option (further details in Evidence Base)

The following options have been assessed against the baseline existing provision of face-to-face and telephone services:

Option 0: Do Nothing.

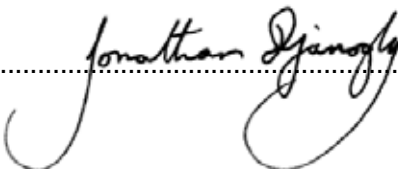
Option 1: Establish the Community Legal Advice helpline as the sole gateway to civil legal aid services and extend the provision of specialist telephone advice to all categories of law within the scope of civil legal aid.

Option 2: As option 1, but in addition to offer access to paid-for advice services to clients not eligible for legal aid services.

When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?	2016
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes

Ministerial Sign-off For consultation stage Impact Assessments:

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: 11 November 2020

Summary: Analysis and Evidence

Policy Option 1

Description:

Establishing the Community Legal Advice (CLA) Helpline as sole gateway to legal aid services

Price Base Year 08/09	PV Base Year 2010	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £240m	High: £360m	Best: £300m

COSTS (£m)	Total (Constant Price)	Transition Years	Average (excl. Transition) (Constant Price)	Annual (Constant Price)	Total (Present Value)	Cost
Low	-		-		-	
High	-		-		-	
Best Estimate	£2m		£10m		£70m	

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

The proposal would involve expanding the capacity of the Community Legal Advice (CLA) Operator Service and the extension of specialist telephone advice provision to cover all categories of law within the scope of legal aid. This is estimated to cost around £10m per year.

One off procurement and marketing costs are estimated at around £2m.

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

Clients previously accessing face-to-face services would be required to phone the CLA helpline and would incur an additional cost. Some clients may also feel worse off in terms of perceived service quality if they prefer face-to-face contact to phone.

Face to face providers would be worse off as a result of the proposal, which if enacted would reduce the demand for face to face advice provision.

BENEFITS (£m)	Total (Constant Price)	Transition Years	Average (excl. Transition) (Constant Price)	Annual (Constant Price)	Total (Present Value)	Benefit
Low	-		£50m		£310m	
High	-		£70m		£430m	
Best Estimate	-		£60m		£370m	

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

Moving specialist advice provision from face to face to phone is estimated to reduce Legal Services Commission (LSC) expenditure on specialist advice by between £50m and £70m per year. Note these are net savings to LSC, incorporating additional telephone spending and lower face to face spending.

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

Telephone advice providers are likely to benefit from the proposal, which if enacted would increase the demand for telephone advice provision. Both existing and potential telephone advice providers are likely to benefit.

Some clients may benefit from the greater convenience of a telephone-based service, including the fact they will no longer need to travel for face-to-face advice. Clients may also benefit from improved consistency of advice offered.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

The savings are based on the following strong assumptions:

- Assume savings generated from the existing provision of telephone advice apply to all new cases being transferred from face to face to phone, including for categories of law in which specialist telephone advice is not currently available through CLA.
- Assume the proposal would have no aggregate impact on the quality of service, customer satisfaction, downstream legal aid costs and justice system costs, or on case outcomes.
- Assume the proposal will have no significant impact on the overall demand for legal advice.
- Assume clients who currently access face-to-face advice services will, instead, ring the CLA helpline.

Impact on admin burden (AB) (£m):			Impact on policy cost savings (£m):		In scope
New AB: N/Q	AB savings: N/Q	Net: N/Q	Policy cost savings: N/Q		No

Summary: Analysis and Evidence

Policy Option 2

Description: Paid-for advice services to non-eligible clients

Price Base Year 08/09	PV Base Year 2010	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £240m	High: £360m	Best: £300m

COSTS (£m)	Total (Constant Price)	Transition Years	Average (excl. Transition)	Annual (Constant Price)	Total (Present Value)	Cost
Low	-		-		-	
High	-		-		-	
Best Estimate	£2m		£10m		£70m	

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

The proposal is expected to involve the same key monetised costs set out in Option 1.

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

The proposal is expected to involve the same key non-monetised costs set out in Option 1. In addition, the Legal Services Commission (LSC) may face additional monitoring and enforcement costs associated with the referral paid for advice through the operator service.

BENEFITS (£m)	Total (Constant Price)	Transition Years	Average (excl. Transition)	Annual (Constant Price)	Total (Present Value)	Benefit
Low	-		£50m		£310m	
High	-		£70m		£430m	
Best Estimate	-		£60m		£370m	

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

The proposal is expected to achieve the same key monetised benefits set out in Option 1.

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

The proposal is expected to achieve the same key non-monetised benefits set out in Option 1. In addition, the LSC may benefit from additional revenue resulting from referrals to paid for advice. Clients not eligible for legal aid may benefit from being referred directly to paid for advice. Providers of paid for advice may benefit if the referral process is cheaper for them than other means of attracting business.

Key assumptions/sensitivities/risks

The assumptions set out for Option 1 apply. In addition:

- Assume that the proposed operating model would be commercially viable.
- Assume that the LSC would appropriately regulate the referral service to ensure clients are directed to the most appropriate source of advice.

Discount rate (%) 3.5%

Impact on admin burden (AB) (£m):			Impact on policy cost savings (£m):		In scope
New AB: N/Q	AB savings: N/Q	Net: N/Q	Policy cost savings: N/Q		No

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	England and Wales				
From what date will the policy be implemented?	2013/14				
Which organisation(s) will enforce the policy?	Legal Services Commission				
What is the annual change in enforcement cost (£m)?	N/Q				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	No				
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: N/Q		Non-traded: N/Q		
Does the proposal have an impact on competition?	Yes				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs: N/Q		Benefits: N/Q		
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	Micro N/Q	< 20 N/Q	Small N/Q	Medium N/Q	Large N/Q
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties ¹ Statutory Equality Duties Impact Test guidance	Yes	p19
Economic impacts		
Competition Competition Assessment Impact Test guidance	Yes	p15
Small firms Small Firms Impact Test guidance	Yes	p16
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	p16
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	p16
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	p16
Human rights Human Rights Impact Test guidance	Yes	p16
Justice system Justice Impact Test guidance	Yes	p17
Rural proofing Rural Proofing Impact Test guidance	Yes	p17
Sustainable development Sustainable Development Impact Test guidance	No	p17

¹ Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base

Annual profile of monetised costs and benefits* - (£m) constant prices

(2008/09 Prices and Volumes)	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs			2							
Annual recurring cost				10	10	10	10	10	10	10
Total annual costs			2	10	10	10	10	10	10	10
Transition benefits										
Annual recurring benefits				30	60	60	60	60	60	60
Total annual benefits				30	60	60	60	60	60	60

* For non-monetised benefits please see summary pages and main evidence base section

References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Enactment).

No.	Legislation or publication
1	Proposals for the Reform of Legal Aid in England and Wales
2	Legal Services Commission Statistical Information 2008/09 and 2009/10
3	
4	

+ Add another row

1. Introduction

1. This Impact Assessment (IA) accompanies the Ministry of Justice's (MoJ) consultation on a fundamental programme of legal aid reform: *Proposals for the Reform of Legal Aid in England and Wales*. The associated consultation paper was published on 15th November 2010 and may be found at www.justice.gov.uk.
2. Legal aid involves the Government procuring legal services and determining the terms and conditions of access to these services. Legal aid expenditure was around £2.1bn per in 2008/09, approximately 25% of the Ministry of Justice's (MoJ) budget. Approximately £1.2bn was spent on criminal legal aid and the remaining £0.9bn was spent on civil legal aid, including private family matters. Legal aid may take the form of pre-court advisory support ('Legal Help') or court-based support ('Legal Representation'). The Legal Services Commission (LSC) is responsible for administering the legal aid scheme in England and Wales and the LSC is overseen by the MoJ.
3. The proposals in this IA relate to the provision of more Legal Help advice by telephone. Other legal aid reform proposals, which are subject to other IAs, relate to: legal aid scope (i.e. what types of case should be covered by legal aid, e.g. family matters); alternative sources of legal aid funding; reforms to fees paid to legal aid providers; and reforming the financial eligibility criteria which determine whether a person might receive legal aid and, if so, whether they might pay a contribution to their legal aid costs.

Economic rationale for government intervention

4. The economic rationale for government intervention may relate to securing macroeconomic objectives, especially in relation to fiscal policy, as well as to microeconomic considerations. On the macroeconomic side the proposals in this Impact Assessment (IA) involve reducing the scale of government expenditure. This will contribute to the Government's objective of reducing the size of the budget deficit.
5. On the microeconomic side the conventional economic rationale for government intervention is based on efficiency or equity arguments. The Government may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or if there are strong enough failures in existing government interventions (e.g. waste generated by misdirected rules). In both cases the proposed new intervention itself should avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and distributional reasons (e.g. to reallocate goods and services to more needy groups in society).
6. Legal aid may be regarded as a redistributive transfer of resources from taxpayers to those who are most needy, in relation to both the nature and merits of their case and also to their financial position. The proposals in this IA relate to moving advice provision away from face to face towards the phone. They involve reducing the scale of these redistributive transfers in so far that, broadly, legal aid clients should be supported by the same volume and quality of services, and should experience the same case outcomes, but legal services providers will be paid less to provide these services. This will help the Government secure the wider macroeconomic benefits associated with reducing the fiscal deficit whilst minimising the impact of these reductions on clients.
7. Legal aid does not involve providing direct financial transfers to clients but instead involves providing legal services which are funded, to differing extents, by the legal aid budget. As such legal aid subsidises a particular type of service. The proposals in this IA involve reducing the scale of this subsidisation. This may generate improvements in the efficiency of resource use. In particular if the same volume and quality of legal advice is provided with fewer resources then the economic efficiency of dispute resolution would improve.
8. There may be a further efficiency justification for Option 2. Under Option 1, the LSC would incur costs at the operator service stage when gathering information about each case. Clients not eligible for legal aid may in theory have to provide similar information to a number of paid advice services in order to identify an appropriate paid for advice provider. Option 2 would avoid such duplication if clients could be immediately referred to an appropriate paid for advice service. This may provide an economic efficiency gain if this process of matching people to service providers uses fewer resources than current arrangements.

Policy objectives

9. The modern legal aid scheme was established in 1949 with a laudable aim: to provide equality of access, and the right to representation before the law. However, the scope of legal matters covered was very tightly drawn. Since then the scope of legal aid has expanded beyond its original intentions, and is now available for a very wide range of issues, including some which should not require any legal expertise to resolve. There is a compelling case for going back to first principles in reforming legal aid, to ensure access to public funding in those cases that really require it, the protection of the most vulnerable in our society and the efficient performance of our justice system. Taxpayer funding of legal advice and representation will be reserved for serious issues which have sufficient priority to justify the use of public funds subject to people's means and the merits of the case.
10. Alongside this, the Government has made clear that its first priority is to reduce the burden of debt by reducing public spending. The Government's spending plans, set out in the 2010 spending review, included a real reduction in income of 23% in the budget of the MoJ over the four years to 2014-15. Legal aid must therefore make a substantial contribution to the required savings.
11. The proposals in this consultation seek to deliver substantial savings in a fair, balanced and sustainable way. They will encourage people to resolve their problems themselves and to use alternatives to the courts where they are effective. They will help reserve the courts for serious legal issues where there is a public interest in assuring access, and then only as a last resort. They also seek to ensure that scarce resources are targeted efficiently and effectively, delivering overall value for money.
12. The proposals for reform therefore cover all aspects of the legal aid scheme: its scope; those eligible for assistance; and the fees paid to those who provide legally aided services.
13. At present clients can choose to access assistance through one of two channels: face to face or phone. We have examined whether this arrangement offers an appropriate service for clients and value for money for the taxpayer. On average, cases dealt with through the helpline cost more than 45 per cent less than the equivalent face-to-face service.
14. A number of potential issues arise from the current model of provision:
 - there is a risk that some less complex cases which may be dealt with more efficiently by telephone services are currently dealt with by face-to-face services and vice versa. This suggests that there is scope for securing better value for money in respect of legal aid expenditure, and at the same time providing clients with a better service;
 - clients may be unaware of the services available through the CLA helpline which may be more convenient to their circumstances; and
 - the multiplicity of access points makes it difficult to ensure that a common approach is adopted by providers in identifying the most appropriate route to resolution for each case.
15. The policy objectives are to ensure that clients seeking legal aid services are provided with high quality advice and information delivered through the most appropriate and efficient channel. Where appropriate, moving service provision to a more cost effective channel (telephone) would enhance productive efficiency if the cost of providing advice and information services falls and if service quality remains the same. Further efficiency gains would arise if, for the same resource, an improved quality of service was provided.
16. More broadly, the proposals should act as an enabler for the wider policy aims of ensuring that family and civil cases are allocated to the most appropriate downstream dispute resolution service and / or channel for legal advice.

Proposals

17. The proposals relate to the provision of Legal Help only. The following proposals are being considered:

- **Option 1:** Establish the Community Legal Advice helpline as the sole gateway to civil legal aid services and extend the provision of specialist telephone advice to all categories of law within the scope of civil legal aid.
- **Option 2:** As option 1, but in addition offer access to paid-for advice services to clients not eligible for legal aid services.

Main affected groups

18. The following groups are considered likely to be affected by the proposal:
- clients, as end users of civil legal aid face-to-face and telephone services;
 - organisations contracted by the LSC to provide face-to-face services;
 - organisations contracted by the LSC to provide telephone advice services;
 - The Legal Services Commission as the organisation responsible for managing the legal aid budget on behalf of government.

2. Costs and Benefits

19. This IA identifies both monetised and non-monetised impacts on individuals, groups and businesses in the UK, with the aim of understanding what the overall impact to society might be from implementing these options. The costs and benefits of each option are compared to the do nothing option. IAs place a strong emphasis on valuing the costs and benefits in monetary terms (including estimating the value of goods and services that are not traded). However there are important aspects that cannot sensibly be monetised. These might include how the proposal impacts differently on particular groups of society or changes in equity and fairness, either positive or negative.
20. All estimates are relative to the 2008-09 baseline and hence take account of the assumption that, as in recent years, fees will not be updated by inflation over the four years to 2014-15.
21. The proposals in this IA have been assessed on a stand alone basis, i.e. in relation to current legal aid scope and eligibility. A separate cumulative IA considers the joint impact of all proposals taken together.

Option 0: Do nothing

Description

22. If the 'do nothing' option were pursued, clients would continue to access legal advice through the channel they currently use. The 'do nothing' option is compared against itself and therefore the costs and benefits associated with it are necessarily zero, as is its Net Present Value.
23. Under the 'do nothing' option, the costs of legal aid are likely to continue to increase, in line with recent trends. Doing nothing would mean it would not be possible to meet the policy objectives outlined above.
24. There are currently two distinct routes to civil legal aid services. First, clients may go directly to a face-to-face provider. Those eligible for legal aid and whose case is within scope of the system would then be offered face-to-face advice. Alternatively, clients may phone the Community Legal Advice (CLA) helpline. Initial calls are dealt with by Operator Service call agents who diagnose the nature of the client's problem and, where possible, resolve the issue². Where further assistance is required, call agents refer clients eligible for legal aid to CLA specialist telephone advisers in cases where they consider this to be the most appropriate route to resolve the problem.
25. The CLA helpline currently provides specialist telephone advice in six categories of law; debt, education, benefits and tax credits, employment, housing, and family. Clients who are not eligible for legal aid are sign-posted to appropriate sources of help, including self-help resources, other national telephone advice providers and local advice organisations.

² Approximately 60 per cent of calls are resolved at this initial stage.

26. The CLA helpline provided approximately 335,000 acts of assistance during 2008/09, of which 100,000 related to the provision of specialist advice. At present, approximately 85 per cent of acts of assistance at the specialist level within Legal Help are provided face-to-face and the remainder by phone. On average, cases dealt with through the helpline cost more than 45 per cent less than the equivalent face-to-face service.

Option 1: Establish the CLA helpline as the sole gateway to civil legal aid services and extend the provision of specialist telephone advice services

Description

27. It is proposed that in future all clients would initially be required to access civil legal advice services through the CLA helpline. Channelling demand through a single gateway would enable call agents to diagnose the nature of the problem and route clients to the services and channels most appropriate for their circumstances.
28. In addition it is proposed that CLA specialist telephone advice should be available in all categories of law. It is anticipated that in the majority of cases, eligible clients needing Legal Help would access services via CLA telephone advice specialists. While face-to-face advice provision would be significantly scaled back, it would still be available where telephone advice would not be appropriate due to (for example) the complexity of the case in question.
29. Operator Service call agents would be responsible for identifying cases where Alternative Dispute Resolution services are the most suitable and effective way to resolve the problem and to make the necessary arrangements for clients to access these services.
30. It has not been possible to quantify all of the identified impacts. However, based on analysis of the available information and on the assumptions outlined below, this option is estimated to generate overall savings to the LSC of between £40 million and £60 million per year. It is assumed that there would be no adverse impact on customer satisfaction or on case outcomes. On that basis, the net present value of this option is expected to be positive.

Option 1: Costs

Costs for legal aid clients

31. Some clients may feel worse off in terms of perceived service quality if they prefer face-to-face contact to phone. Further, the cost to customers of accessing the relevant information or advice may be higher under the proposal. For example, in complex cases it may be that face-to-face is the most appropriate channel to use. Compared to the base case, a client with such a complex case will now have to incur the cost of phoning the CLA helpline and agreeing with the Operator Service agent that this is indeed the case before being able to access the face to face advice.
32. There would also be an increased cost to clients who currently receive face to face advice, given the helpline number offered by the CLA is not free to call³. As above, to mitigate the effects of these costs on clients the CLA Operator would offer a call back service, or a 'call-me-back' request could be made online.
33. In addition to an impact on perceived service quality and cost of accessing the service, it is possible that case outcomes may be worse for phone contact in certain types of cases when compared to face-to-face service provision. The LSC are currently researching whether case outcomes are dependent on the channel used.
34. In the meantime, it is assumed that the proposal would have no aggregate impact on advice quality or on case outcomes. In particular if evidence is found, including through any monitoring arrangements, that suggests quality may be affected, the LSC will investigate which mitigating

³ The CLA helpline operates through a 0845 telephone number. There is a charge to callers ringing this number from both landlines and mobiles (although some landline call packages now include such numbers within their free minutes bundle. The cost of calls from mobile telephones to this number will vary and will generally be higher than from a landline.

actions are required to help ensure that, for all customer and case types of case, there should be no significant reductions in service quality, customer experience, and case outcomes.

35. The proposal envisages that CLA Operator Service call agents would refer clients to residual face to face services where telephone contact would be inappropriate (for example due to case complexity or the needs of the client). This should minimise the risk of the unintended outcomes described above. However, clients who do require face-to-face advice may have to travel further to obtain it compared to now.
36. There are also a number of potential non-monetary impacts for clients. Delivering a greater proportion of advice by telephone may cause access problems for some clients, for example due to literacy issues, language barriers, problems acting on advice given, or an inability to pick up on non-verbal cues. In addition, telephone providers are likely to have diminished local knowledge. The requirement to access services through the CLA Operator Service also adds an additional layer of complexity for the client in cases where face-to-face help is ultimately required or in an emergency situation, and also represents a reduction in client choice.

Costs for legal services providers

37. The proposal envisages a significant shift away from face-to-face to telephone advice provision. As a consequence, the number and value of face-to-face contracts will diminish and hence current face to face contract holders will be worse off. The size and nature of the residual requirement for face-to-face advice is likely to vary significantly between categories of law. During the consultation period MoJ and LSC will examine in further detail the likely impact on each category of law.
38. Face-to-face providers would have less control over case allocation and marketing as the majority of the legal aid work they would receive would be from referrals from the telephone service.
39. It is intended that all advice providers (whether current contract holders or not) would be able to bid for re-tendered telephone and face-to-face contracts under the proposal.

LSC costs – one off costs

40. One-off costs would be associated with developing the necessary new phone capacity. As provision of these services is currently outsourced, and will continue to be so, there are no anticipated significant capital or investment costs for the LSC or MoJ.
41. There are no expected significant MoJ or LSC staff or estate costs associated with the required changes to phone contact given that the services in question are outsourced. However, the existing contracts for the provision of both telephone advice services (Operator Service and specialist level) and face-to-face advice services would need to be re-tendered, given the scale of changes to both services. The exact size of this cost would depend on when any changes are introduced. Procurement costs of a similar nature would have been necessary on the expiration of the current contracts.
42. The proposal is likely to involve additional procurement costs resulting from the expanding CLA service. Given the expected expansion in the volume of cases and extra law categories covered in any new telephone advice contracts, the new tender is likely to require additional LSC resources to run. It is estimated that additional procurement costs are likely to be in the region of £1 million.
43. While the necessary channel shift to phone will be achieved primarily through mandating the use of the CLA helpline service, some spending on marketing of the CLA brand may be required. The marketing budget allocated is at this stage unclear, but for modelling purposes marketing expenditure is assumed to be £1 million. This also assumes that this future spending on marketing would be consistent with wider government policy on such expenditure at that time.

LSC costs – ongoing costs

44. The proposal involves extra costs at the Operator Service stage as the establishment of the CLA as the sole gateway to civil legal aid services is likely to lead to a significant increase in the volume of calls it deals with. Estimates suggest call volumes could increase by around 1.2 million calls per

year (from around 600,000 to around 1.8 million). This is based on an assumption that every case currently dealt with face to face would result in 1.55 calls to the Operator Service.

45. Ongoing additional costs compared to current arrangements would relate to the provision of additional phone advice at the Operator Service stage, given CLA will now act as the sole gateway to legal aid services for all 'in scope' categories of law. It is assumed that average call lengths are likely to increase at the Operator Service stage (as triage may be more complex), with a 33% increase raising costs from around £6 to around £8 per call. This would result in an estimated overall increase in Operator Service costs of around £10 million per year.
46. There would also be additional costs to the CLA from operating an expanded specialist advice service (providing advice for an expanded set of categories of law). Further, average call lengths may increase for existing categories where specialist advice is offered e.g. if more complex cases are dealt with by phone. However, the proposal is expected to result in overall savings at the specialist advice stage, and hence impacts on specialist advice are covered in the benefits section of the IA.
47. Ongoing staff, estates and procurement costs within the LSC are not expected to increase significantly as a result of the proposal, primarily as the provision of advice services is outsourced and would continue to be so.
48. It is possible that the volume of calls might further increase e.g. due to greater public awareness of the service or resulting from improved perceptions of service quality, or if service capacity or quality falls elsewhere in the legal advice sector. To provide context, an estimated 4 million clients have a civil problem and seek some form of advice per year. Call volumes might also be higher if there was an increase in repeat calling.
49. Alternatively, the forecast call volume increase may not ultimately occur, for example if clients decide to access (and possibly pay for) other face-to-face advice provision rather than phoning the CLA helpline. The forecast used is therefore presented as a central estimate.

Option 1: Benefits

Legal aid fund

50. Reductions in expenditure on legal aid would be generated by dealing with a greater proportion of specialist cases by phone instead of face-to-face. Based on current call volumes and call lengths for the six categories of law in which specialist advice is provided, LSC estimate that providing specialist advice by phone rather than face to face would save over 45 per cent per case on average.
51. Based on the types of cases in each category of law, the LSC expect that around 580,000 cases could appropriately be offered specialist advice over the phone, rather than face to face. Assuming that the savings made for current categories of law can be achieved for each case in the expanded CLA specialist advice service, this suggests that an estimated £70 million savings per year could be made.
52. While only those cases which could appropriately be dealt with by phone are expected to switch from face to face to phone under the proposal, this may be considered a strong assumption. In particular, savings would be lower if specialist advice call lengths increase as a result of the proposal. To account for this, a 'low savings' scenario has been developed in which specialist advice savings per case are 30 per cent lower than assumed above. In this lower scenario, specialist advice savings would fall to an estimated £50 million per year.
53. The best estimate presented uses the midpoint of these high and low estimated benefits.
54. As face to face services would continue to operate, albeit for a smaller volume of cases, the proposals would not provide significant LSC administration savings resulting from LSC not needing to maintain and develop face to face services.

55. This option offers LSC greater control over how they fund cases as the service can be set up to apply a more rigorous approach to taking any action on cases, including advising when other channels are more appropriate.
56. Any increased volumes of cases going through the CLA specialist telephone advice contracts could lead to increased appetite to bid by both existing legal aid providers as well as new entrants from the private sector. This could lead to greater competition potentially resulting in reduced cost to the LSC.

Benefits for legal aid clients

57. It is possible that some clients may prefer the convenience offered by telephone services, but are currently unaware that they are able to access these services. In many cases the provision of telephone advice would enable them to make contact at a time and place convenient to them. The opening hours of the CLA helpline are longer than is typically the case with face-to-face services. In addition eligible clients requiring specialist advice are usually transferred to providers by the Operator Service on their initial call, enabling them to begin to resolve their problems more speedily, reducing stress and anxiety. In some cases this might lead to earlier resolution and so help prevent problems multiplying and escalating.
58. In many cases there would be a reduced need to travel to face-to-face services resulting in savings for clients in terms of time and cost, although this may be offset if clients incur a cost by calling the CLA helpline service. (There are a number of call me back schemes offered by CLA which minimise call costs to clients).
59. Further, by establishing CLA as the sole gateway to civil legal aid services, it is envisaged that clients may benefit from consistency of advice and improved service quality. For example, the Operator Service should be better able to route clients to the most appropriate service for their needs than is possible with the current service model.
60. All CLA clients would be able to receive some level of information and help through the Operator Service irrespective of whether they are eligible for Legal Aid.

Benefits for legal aid providers

61. As a result of this proposal there would be a need for the LSC to re-tender for both the Operator Service (which would require a significant increase to its capacity) and the Specialist Telephone Advice provision including in those categories of law where this service is not offered at present. In principle, all organisations with the capacity to provide these services would benefit from this increase in the demand for their services. It is envisaged that the tenders would be open to both existing providers and new bidders.
62. Under the existing CLA virtual call centre system, there is no requirement for providers to invest in expensive IT or telephony systems in order to offer the necessary services. All that is required is phone and secure Internet access. It is assumed that this would continue to be the case.

Option 2: As Option 1, but additionally offer access to paid-for advice services to non-eligible clients

Description

63. Option 2 would implement all aspects of Option 1. Please refer to the description section of Option 1 for details of what this would involve.
64. In addition to Option 1, under this option the CLA service would also be expanded to include the option for paid for advice services for clients who are ineligible for legal aid. In addition to providing legal aid advice services, CLA providers would also be able to offer a paid for advice service to clients referred to them by the Operator Service. The Operator Service would confirm the associated charges with clients at the Operator Service stage and would confirm that they are willing to be referred.
65. The LSC would set out in the relevant tender the requirements in respect of issues such as quality standards, maximum rates to be charged and assurances about standards of service for both eligible and non-eligible clients.
66. At this stage the quantified overall savings to the LSC of Option 2 are assessed as being the same as for Option 1. This is because it has not been possible to quantify all of the additional identified impacts. In particular compared to Option 1, additional revenue for the LSC may be available, and non-eligible clients may benefit from direct referral to paid for advice. However, this service model would probably require the LSC to incur some additional monitoring and enforcement costs. At this stage, these additional impacts have not yet been quantified, and hence it is unclear which of the options would provide the greatest net benefit. There is no preferred option at this stage.

Option 2: Costs

Costs for legal aid clients and other clients

67. All the ongoing costs to legal aid clients of Option 1 would be incurred. Please see the equivalent section of Option 1 for more details.
68. In addition, under Option 2 non legally aided clients opting for paid advice would incur the cost of calling CLA in order to access paid advice services. The LSC tender is likely to detail the maximum rates chargeable for these services and prices would be set at sufficiently competitive rates within the wider advice market. There is however a risk that such non legally aided clients may be less likely to shop around for advice from the wider market, which may on occasion may result in higher prices being paid for advice.

Costs for legal services providers

69. All the ongoing costs to providers of face to face services of Option 1 would be incurred. Please see the equivalent section of Option 1 for more details.
70. In addition, under Option 2 there may also be a cost to the wider paid advice market if more clients seek paid advice through CLA rather than through traditional routes. This may reduce demand and / or income for the latter.

LSC costs – one off costs

71. All the one-off costs to LSC of Option 1 would be incurred. Please see the equivalent section of Option 1 for more details.
72. Under Option 2 it is envisaged that the requirements in respect of the provision of a paid-for service would be incorporated into the re-tendering process for CLA telephone advice services and therefore there would be no significant additional procurement cost from the provision of referrals for paid-for advice. There may be an additional one-off set up cost (and, possibly, an associated ongoing cost) to the LSC to establish the charging mechanism, depending on the nature of the

LSC costs – one off costs

73. All the ongoing costs to LSC of Option 1 would be incurred. Please see the equivalent section of Option 1 for more details.
74. In addition, under Option 2 it would be necessary to manage the risk that ineligible clients are referred inappropriately to paid advice through monitoring of Operator Service processes which may increase costs to LSC. There is therefore likely to be an ongoing monitoring and enforcement cost for LSC, although it is not anticipated that this cost would be significant.

Option 2: Benefits

Legal aid fund

75. All the ongoing benefits to LSC of Option 1 would be achieved. Please see the equivalent section of Option 1 for more details.
76. Under Option 2, the LSC should also be able to derive an income stream from referrals to paid advice (dependent on take-up of the service). There are a number of charging mechanisms that could be applied in respect of this income stream including fees for each referral made or a reduction through the tendering process in the overall cost of the CLA service. At this stage it has not been possible to estimate the size of these potential additional savings for LSC. This will be investigated over the consultation period.

Benefits for legal aid clients and other clients

77. All the ongoing benefits to clients of Option 1 would be achieved. Please see the equivalent section of Option 1 for more details.
78. Under this option, non legally aided clients who are ineligible for legal aid would benefit from having the option of being referred by Operator Service call agents to quality assured paid advice services. In many instances Operator Service call agents would be able to refer clients directly to paid-for providers and so minimise the risk and possible delay in accessing specialist services that clients would incur if they were left to search for paid advice themselves. The LSC could ensure that advice is comparable to legal aid rates rather than market rates. The paid advice services referred to are assumed to be competitive within the paid advice market, as outlined above.

Benefits for legal aid providers

79. All the ongoing benefits to organisations with the capacity to provide telephone advice services of Option 1 would apply. Please see the equivalent section of Option 1 for more details.
80. In addition, advice providers may benefit further from the potential to derive income from fees charged to non-eligible clients for paid-for advice services. It has not been possible to estimate this impact at this stage. This will be investigated over the consultation period.

Assumptions and Risks

81. The assumptions outlined in this section have been used to analyse the estimated impacts of the proposals, and apply to all options considered unless stated otherwise:
 - the LSC have estimated the proportion (and volume) of cases in existing and new categories of law for which specialist advice could appropriately be provided by phone. These estimates take into account the likely case complexity and client needs for each category. For categories of law where specialist advice is already provided by phone, it has been assumed that the average levels of savings achieved from providing phone advice compared to face to face also apply to the additional cases being switched to phone in each category;

- it has also assumed that CLA specialist telephone advice would be cheaper than the equivalent face-to-face provision in the categories of law where this service is not currently offered. The average specialist advice savings generated across existing categories of law are assumed to apply to the cases switching to the phone in all new categories;
- these savings reflect assumptions about the proportion of current face to face cases which might be handled by phone in future and the proportion which still require face to face service;
- it has been assumed that people who currently access face-to-face advice services would, instead, ring the CLA helpline. This would increase the cost of providing the Operator Service. It has also been assumed that every case currently dealt with face-to-face would generate 1.55 calls to the Operator Service on average (to reflect the risk of ineligible and repeat calls etc);
- it has been assumed that the average length of a call to the Operator Service would increase the cost per call from around £6 to around £8, reflecting, among other factors, the increased time necessary to identify and assess cases suitable for Alternative Dispute Resolution;
- it has been assumed that there would be no significant reductions in customer service quality, including customer satisfaction, customer costs and customer outcomes. In particular, it has been assumed that mitigating actions would be successfully undertaken to prevent any unintended impacts on service quality if any were anticipated. Consequently it has been assumed that the quality of Legal Help would remain at current levels and that there would be no onward impact on the number of cases funded at the Legal Representation stage i.e. there would be no indirect downstream costs or benefits to the LSC as a result of the proposal;
- it is assumed that it will be possible to provide a residual face-to-face service of the required quality and coverage to deal with cases not appropriate for telephone advice provision. This may be particularly testing to achieve in categories of law where there are low volumes of residual face-to-face cases such as Actions against the Police and Community Care;
- for Option 2, it is assumed that there will be a sufficient supply of (paid-for) advice providers willing to provide paid-for advice services alongside free-to-client services i.e. that the proposed service model is commercially viable. In part, this assumes that the demand for paid-for advice is sufficient;
- under Option 2, it is also assumed that the LSC would appropriately regulate the new CLA service to ensure clients were directed to the most appropriate source of advice, including whether this advice were free or not. In particular, it is assumed that this would be sufficient to ensure that the revised model would have no impact on customer satisfaction or on case outcomes. Monitoring and enforcement costs are assumed not to be significant.

82. Risks apply to all of the assumptions outlined above. Other risks worth mentioning include:

- providing a larger proportion of advice and information services by telephone may create barriers to some clients accessing the services. This may include language and hearing impairment barriers. This would need to be mitigated where possible within the service design. Conversely, the ease of using a telephone-based service may increase demand for the service beyond the planned capacity;
- it may be difficult for telephone advice providers (particularly those new to the market) to recruit and retain suitably qualified staff in sufficient numbers with the necessary skills to deliver advice over the telephone.

3. Enforcement and Implementation

83. The assumption for all the proposals on eligibility is that they will be implemented in 2013-14.

4. Specific Impact Tests

Equality Impact Assessment

84. The published equivalent Equality Impact Assessment (EIA) details the equality impacts.

Competition Assessment

85. The effect of the increased proportion of service delivery through telephone services would be a reduction in the number and value of face-to-face contracts. Due to the scale of the potential changes it would be necessary for LSC to re-tender for the contracts for face-to-face and telephone advice provision. While there are likely to be fewer contracts there would be no significant restrictions on which organisations can bid for them as a result of the establishment of CLA as a single gateway.
86. To date the majority of CLA specialist advice providers have been face-to-face providers diversifying into telephone provision. The increased volume of calls to the CLA service could lead to an increased appetite to bid by both existing legal aid providers as well as by new entrants from the private and not-for-profit sectors and could lead to increased competition. Conversely the reduction in volumes of face-to-face provision may lead to reduced competition, particularly if the contract sizes are small.
87. The provision of a paid-for advice service (as outlined in Option 2) may prevent Not for Profit organisations from applying for the contracts because charging clients for services may run counter to the ethos and stated principles of their organisations. There may be an impact on the wider legal services market if clients for paid advice are referred to CLA providers as this may give them a competitive advantage in the market. Other providers may find it more difficult to compete for business, particularly if clients do not shop around for alternative advice. CLA providers may in time be able to utilise this competitive advantage to increase their prices and could even result in providers who do not have a contract with CLA being eased out of the market.
88. MoJ and LSC will examine the effects of these proposals on the issue of competition in more detail during the course of the consultation period.

Small Firms Impact Test

89. The majority of organisations (both in the private and not-for-profit sectors) holding contracts with the LSC to provide face-to-face advice contracts have less than 50 employees (and would therefore be categorised as small). In 2009/10 almost all contracts for family matters were held by solicitors firms while not-for-profit providers held approximately one third of the non-family contracts. As indicated in the Competition Assessment some small firms may be among the organisations to face reductions to (or loss of) their face-to-face contracts.
90. There is a risk that smaller organisations may be less likely than larger firms to win telephone advice contracts if they are unable to benefit from the economies of scale in bidding for a larger volume of work and reflecting this in their price bid. Small firms may also be less likely to have the expertise in operating a phone based service.
91. MoJ and LSC will examine the impact of these proposals on small firms in more detail during the course of the consultation period. This will include careful consideration of how the service specification will be drafted around recommended minimum contract volumes, to help mitigate any adverse impact on smaller firms.

Carbon Assessment

92. We do not consider that there will be any significant change in Greenhouse Gas emissions as a consequence of this proposal. The proposals are likely to lead to a reduced need for a number of clients to have to travel to seek legal aid as they will be able to access the necessary services by telephone. However, the reduction of the number and value of face-to-face contracts could lead to a small number of clients having to travel further for face-to-face advice (i.e. where the complexity of their case or their specific circumstances meant that face-to-face services were appropriate). The net effect of these impacts is not likely to be significant.

Other Environment

93. We do not anticipate any significant impact on the environment as a consequence of this proposal.

Health Impact Assessment

94. We do not anticipate any significant impact on human health or the demand for health and social care services in the UK as a consequence of this proposal.

Human Rights

95. The proposals in this IA have been subjected to a Human Rights screening to ensure it is compliant with the Human Rights Act 1988.

Justice Impact Test

96. The overall impact on the justice system is detailed in this Impact Assessment.

Rural Proofing

97. As stated above the envisaged reduction in the number of face-to-face contracts may mean that in some cases it will be necessary for clients to travel further to access face-to-face advice services. During the consultation period LSC will examine how the contracting regime can best be developed to minimise this impact.
98. Our examination of forecasts of the consequent reduction in income on existing face-to-face providers does not demonstrate a significant difference between urban and rural organisations.

Sustainable Development

99. We do not anticipate any significant impact on the principles of sustainable development as a consequence of this proposal.

Annex 1: Post Implementation Review (PIR) Plan

Basis of the review:

It is intended to review each policy in 2016. The review will form part of a wider review of the entire package of Legal Aid Reform policies implemented following the November 2010 Consultation on the Legal Aid Reforms.

Review objective:

To ascertain whether the provision of a greater proportion of legal aid advice by telephone has had the expected impact on the affected groups outlined in this IA.

Review approach and rationale:

The intention is to review the impact of the proposals for the further development of telephone services on all affected groups outlined in the IA. This is likely to take the form of an Impact Evaluation. This will include reviewing the actual impact of the proposals on the legal aid fund, clients and providers. We intend to use data the LSC routinely collect to assess the impact on the provider and customer population.

Baseline:

The impact of the proposals to further develop telephone advice services will be assessed against a 2008/09 baseline for LSC expenditure and volumes data which all telephone and face-to-face costs and savings figures in this IA are based upon.

Success criteria:

Whether the implementation of the proposals to develop telephone services successfully reduces expenditure on civil legal aid advice services while offering a service of at least equal quality to current provision.

Monitoring information arrangements:

It is intended to make use of the data LSC systems routinely collect. This will allow the impacts of the proposals to develop telephone services to be assessed at the appropriate date.

Reasons for not planning a PIR:

N/A.