

Annexe 1: ILPA's Collection of information for this response

Collection of information

ILPA has obtained information from its members in the following ways:

- i) Meetings – members meetings and meetings with organisations, including umbrella organisations
- ii) Detailed information on case costs collected from a small sample - Questionnaire – see Annexe 2
- iii) Responses to general questions obtained by email. We asked the following three questions:
 1. Does your organisation believe that it can make the present proposals for a “graduated fees scheme” from next April pay while still maintaining the quality of its service?
 2. If not, if this because you believe that no graduated fees scheme could be feasible, or because of flaws in these proposals? If the latter, what do you perceive to be the main flaws?
 3. What, if any, difference do the present proposals make to your organisation’s intentions in relation to the renewal of the contract.Responses received often went into detail beyond the questions asked.
- iv) Ad hoc communications and expressions of views.

We are extremely grateful to all those who have provided information to us or shared their views with us. The views quoted in our response were derived from the above sources. Where a member’s view is not a direct quotation, but derived from a note of a meeting, we have indicated this next to the quotation.

We have also taken note of information collected, and views expressed, by other organisations. Organisations have been generous in sharing information with us and we are grateful to them.

We have obtained information from the LSC through a Freedom of Information request and by attending meetings.

Annexe 2 Responses to ILPA Questionnaire

On the pages following you will find a questionnaire and Excel tables tabulating the responses to that questionnaire. ILPA collected detailed information on case costs from a small sample of organisations, covering a wide variety of different practices.

The questionnaire was sent to all members and answers were collated from those who were able to make time to respond with detailed figures. No attempt was made to select firms or organisations for inclusion in the sample.

Eight organisations provided detailed breakdowns of cost in a standard format and two others provided statistics, although not in a standard format.

Some responses were received too late to be included in our tables, and we also had late supply of figures not in a standard format. We have included those below.

We have provided all the figures provided to us; there has been no selection in the responses reported here.

We have sought to analyse the results from our sample in relevant parts our response, but have provided the full figures here and general information about the sample.

Please note that there are four sheets of Excel tables, all in the same document:

- Immigration April 2005 to March 2006 – includes general information about those in the sample
- Immigration April 2006 to end July 2006
- Asylum April 2005 to March 2006
- Asylum April 2006 to end July 2006.

The word “only” has been used against some single figures to ensure that these do not wrongly report as percentages or sums of money, and has no other meaning.

About the questionnaire

The questionnaire is reproduced below. In collating the responses we became aware that some of the questions were not as clear as they could have been, and that people had answered them in different ways, as follows:

Level One advice – Not for Profits can give up to 35 minutes one-off advice without any means or merits testing. Looking at the very short times some Not For Profits reported as their lowest figures for Legal Help we are concerned that these figures may include either times of Level One sessions, or reflect short overflows where the majority of the work had been done within the 35 minutes. If this is the case this would have a knock-on effect on averages reported by those organisations.

Interpretation and other disbursements. Our questions asked about the average cost of disbursements and the average proportion of disbursements spent on interpreting and translation. Looking at the figures, it would appear that some respondents have calculated average costs of interpretation across all cases, including those where they had no disbursements, while others appear to have taken

averages of cases in which they did incur disbursements. This makes it very difficult to aggregate or to compare the interpretation costs reported by those different organisations.

About the sample

The sample is too small to generate statistically significant figures and it is necessary to be extremely wary of drawing general conclusions from it. What it can do is to provide a snapshot of how immigration and asylum casework is billed within different firms and not for profit organisations and thus call into question general assumptions that do not square with this data. It can go some way to generating counter-examples to assumptions in the consultation paper and other documents¹.

It is important to read the statistical information together with the quotations from our members. The latter are an important complement to the statistical data, and provide assistance in understanding it².

Five organisations in our sample were Not for Profit. Of these, three were London-based and two were outside London. Those outside London had between two and five caseworkers at Level 2 or above. One Not for Profit within London provided information on the number of caseworkers at Level 2 or above; it had one. Of the Not for Profits outside London, one was not categorised as Level 1 or 2, the others were level one and two respectively. Those in London were not categorised in this way or did not respond.

The largest number of cases closed in the year March 2005 to April 2005 by a Not for Profit outside London, including asylum and non-asylum, legal help and CLR was 368, the smallest was 46. For London these figures were 79 and 75.

Three organisations in our sample were private firms. Two other private firms provided statistics, although not in a standard format. The three providing detailed information were all in London. Of those providing other statistics, one was in London, one outside. The biggest London firm in the sample has 11 solicitors at level 3 and above, the smallest just one. The firms were categorised as level 1 or level 2.

The largest number of cases closed by a for-profit firm in our sample from March 2005 to April 2005, including asylum and non-asylum, legal help and CLR, was 752, the smallest was 77.

Thus the sample provides an opportunity to look at the real costs of cases in diverse firms and to test the LSC's assumptions, as disclosed in our response to our Freedom of Information request, against what is happening in a variety of settings.

¹ “...statistics can...provide evidence that warrants the *elimination* of certain hypotheses from consideration. .. [its] abilities are *negative* and only negative.” MacIntyre, A., ‘Social Science Methodology as the ideology of bureaucratic authority’ in M. Falco, ed., *Through the looking-glass: Epistemology and the Conduct of Enquiry*, University Press of America 1979.

² The crucial truth...is that *from no set of purely statistical premises can any conclusion of a causal kind be validly drawn...Ibid.*

Organisations and Firms providing data in non-standard format.

Two of the organisations in our sample provided data in a non-standard format. This we set out here.

Firm 4

Provided information on average case costs as follows:

	Fees	Disbursements	VAT	Total
Asylum LH	£398.24	£74.16	£57.29	£529.70
Non-asylum LH	£339.00	£38.49	£54.09	£431.58
Asylum CLR	£1,080.17	£743.08	£183.05	£2,006.30
Non-asylum CLR	£961.82	£629.22	£164.99	£1,756.07

Firm 5

Provided average costs of successful appeals (LSC endpoint success code) billed during the period 07 05 to 07 06, as follows:

Matter	Average costs billed	Average times per matter show		
Asylum LH	£1077.13 (exclusive of interpreting/translating)	1138		
CLR asylum	£1,527.16	1338		
Counsel's fees asylum	£1,205.82			
Non asylum LH	£350	347		
CLR non asylum	£518.80	318		
Counsel's fees non asylum	£466.80			

Information was provided on minutes per matter/case because it was noted "*The minutes billed are often lower than those recorded*". This is discussed in our submission.

The firm notes that during this period only one case billed at over £5,200 (four times the fixed fee), as discussed in our submission. Also that "*it is possible that because of the predominance in this firm of a particular type of non-asylum LH matters, our figures are "skewed" by those cases, which may just about be amenable to the description routine*".

Information arriving too late for inclusion in the sample

Some figures arrived too late for inclusion in our sample, but are reproduced here.

Firm A

An private practice outside London, with no devolved powers, comprising two solicitors and a casework and describing themselves as having "*relatively few*" matter starts provided the following information on claims for the period April 2005 to August 2006:

	Average claims	Comparison with fixed fee proposal
Asylum stage 1	£740.05	£190.05 more than ff
Asylum stage 2	£790.82*	<i>See note</i>
Immigration stage 1	£494.51	£244.51 more than ff
Immigration stage 2	£317.32**	£432 less than ff

*Average profit costs up to first hearing before an immigration judge but including cases that do not proceed to a hearing. Firm notes "we do not routinely instrument counsel to do first instance appeals. A fairly large proportion of our cases proceed to recon/higher courts"

** "Normal CLR profit costs"

Firm B

A London private practice, provided information for the year 2005 to 2006 as follows

	Average claim (profit costs only)	Current costs limit (excluding disbursements, allowing for extension claims)
Asylum profit costs only	£994.05	£800
Immigration profit costs only	£325.20	£500.00
Asylum CLR	£1484.27	£1,600 incl. disbursements
Immigration CLR	£640.44	£1,600 incl. Disbursements

The firm noted that for full hearings "*We usually allow about £350 (immigration) /£450 asylum for...Counsel [based in the same town] but more for Counsel from Manchester or London (to include travel and expenses) but also as would use these more experienced Counsel for more complex cases*" For the period April to July 2006 their success rates were 60% overall – breaking down as 55.56% for asylum appeals and £62.50 for immigration appeals.

Firm C

A London private practice.

This firm examined a sample of 36 files billed over a four month period (April –July 2006) which I thought would give a fair representation. The sample involved 36 files. The sample excluded NASS, detained and UASC cases and also appeal cases that were covered by transitional provisions and some stage claims on the basis that these "did not easily correspond to a fixed fee". Thus the cases in sample accounted for 55% of the profit/costs in the period under study. The firm state that even if they were to be paid fully, and thus suffer no loss on the other 45% of their cases, the shortfall in the cases in the sample alone would result in a 22% loss in fee income.

Size of sample	36 cases
Under fixed fee amount	8*
Cases over 4x fixed fee	2**

* *"although not by much... they mostly related to ELR to ILR applications which are not going to exist beyond 2007 and have been replaced by active review which will most likely involve significantly more work".*

** No information provided on whether this is exclusive or inclusive of disbursements.

The solicitor providing the figures wrote *"Most cases seemed to come in at two to three times the fixed figure amount. The most that were significantly over related to CLR appeals. In one month, I had three successful appeals but we would have been down 66% on profit costs".* The cases included one asylum appeal and two immigration appeals. IN the asylum appeal, the client was English-speaking.

The firm's calculation is that the only way in which they could have achieved a swings and roundabouts effect on these appeals would have been to open five CLR files at £750 each and do only £50 work on each) and that *"Counsel would have been down almost 49%" on the cases in the sample".*

ILPA Questionnaire

1. Is yours a private practice or a Not For Profit organisation?

Answer:

2. How many solicitors/caseworkers accredited at Level 2 or above work in your organisation, or in the branch of your organisation in respect of which you are responding?

Answer:

3. Does your organisation have devolved powers?

Answer:

4. Is your organisation currently categorised as Level 1, 2 or 3 by the LSC?

Answer:

5. Does your organisation employ in-house interpreters or bi- or multi-lingual caseworkers? If so, please state which languages are covered in-house, and give some indication of the frequency with you which you also employ outside interpreters in (a) those languages and (b) other languages.

B. Information about immigration non-asylum cases:

6. In respect of immigration non-asylum Legal Help in the contract year April 2005 - March 2006:

a. how many cases did your organisation report as closed?

Answer:

b. what was the average number of minutes per case reported?

Answer:

c. What was the highest number of minutes for any single case in this sample?

Answer:

d. What was the lowest number of minutes for any single case in this sample?

Answer:

e. (ei) How many, or what proportion of, the clients whose cases are included in this sample were detained at some stage of the case? (eii) If possible please indicate the average number of minutes included in those claims which are attributable to travelling and waiting occasioned by the fact of the client's detention. If this cannot be extrapolated from your records without undue difficulty, please provide your best estimate.

Answer:

7. In respect of immigration non-asylum Legal Help in the present contract year to the end of July 2006:

a. how many cases did your organisation report as closed?

Answer:

b. what was the average number of minutes per case reported?

Answer:

c. What was the highest number of minutes for any single case in this sample?

Answer:

d. What was the lowest number of minutes for any single case in this sample?

Answer:

e. (ei) How many, or what proportion of, the clients whose cases are included in this sample were detained at some stage of the case? (eii) If possible please indicate the average number of minutes included in those claims which are attributable to travelling and waiting occasioned by the fact of the client's detention. If this cannot be extrapolated from your records without undue difficulty, please provide your best estimate.

Answer:

8. In respect of immigration non-asylum CLR (excluding reconsiderations) in the contract year April 2005 - March 2006:

a. how many cases did your organisation report as closed?

Answer:

b. what was the average number of minutes per case reported?

Answer:

c. what was the percentage success rate?

Answer:

- d. in how many of these cases were fees for counsel claimed (i), and what was the average amount of the claims(ii)?

Answer:

- e. What was the highest number of minutes for any single case in this sample?

Answer:

- f. What was the lowest number of minutes for any single case in this sample?

Answer:

- g. How many, or what proportion of, your claims in this sample included claims for bail applications? If possible, please state or estimate the average number of minutes claimed for the bail element of those cases.

Answer:

9. In respect of immigration non-asylum CLR (excluding reconsiderations) in the present contract year to the end of July 2006:

- a. how many cases did your organisation report as closed?

Answer:

- b. what was the average number of minutes per case reported?

Answer:

- c. what was the percentage success rate?

Answer:

- d. In how many of these cases were fees for counsel claimed(i), and what was the average amount of the claims(ii)?

Answer:

- e. What was the highest number of minutes for any single case in this sample?

Answer:

- f. What was the lowest number of minutes for any single case in this sample?

Answer:

- g. How many of your claims in this sample included claims for bail applications? If possible, please state or estimate the average number of minutes claimed for the bail element of those cases.

Answer:

C. Information about asylum cases:

10. In respect of asylum Legal Help in the contract year April 2005 - March 2006:

a. how many cases did your organisation report as closed?

Answer:

b. what was the average number of minutes per case reported?

Answer:

c. What was the highest number of minutes for any single case in this sample?

Answer:

d. What was the lowest number of minutes for any single case in this sample?

Answer:

e. What was the average cost of disbursements per case?

Answer:

f. What was the highest cost of disbursements for a single case in this sample?

Answer:

g. For cases in which disbursements were claimed, what was the lowest for a single case in this sample?

Answer:

h. In what percentage of cases were no disbursements claimed?

Answer:

i. What percentage of the total disbursements claim for this sample is attributable to interpreting and translating costs? - please provide a best estimate if this figure cannot be precisely extrapolated without disproportionate trouble

Answer:

j. In what percentage of cases were interpreting and translation costs incurred?

Answer:

k. How many, or what proportion of, the clients whose cases are included in this sample were detained at some stage of the case(i)? If possible please indicate the average number of minutes included in those claims which are attributable to travelling and waiting occasioned by the fact of the client's detention (ii). If this cannot be extrapolated from your records without undue difficulty, please provide your best estimate.

Answer:

11. In respect of asylum Legal Help in the present contract year to the end of July 2006:

a. how many cases did your organisation report as closed?

Answer:

b. what was the average number of minutes per case reported?

Answer:

c. what was the average cost of disbursements per case?

Answer:

d. What was the highest cost of disbursements for a single case in this sample?

Answer:

e. For cases in which disbursements were claimed, what was the lowest for a single case in this sample?

Answer:

f. In what percentage of cases were no disbursements claimed?

Answer:

g. What percentage of the total disbursements claim for this sample is attributable to interpreting and translating costs? - please provide a best estimate if this figure cannot be precisely extrapolated without disproportionate trouble

Answer:

h. In what percentage of cases were interpreting and translation costs incurred?

Answer:

i. How many, or what proportion of, the clients whose cases are included in this sample were detained at some stage of the case? If possible please indicate the average number of minutes included in those claims which are attributable to travelling and waiting occasioned by the fact of the client's detention. If this cannot be extrapolated from your records without undue difficulty, please provide your best estimate.

Answer:

12. In respect of asylum CLR (excluding reconsiderations) in the contract year April 2005 - March 2006:

a. how many cases did your organisation report as closed?

Answer:

b. what was the average number of minutes per case reported?

Answer:

c. what was the percentage success rate?

Answer:

- d. in how many of these cases were fees for counsel claimed(i), and what was the average amount of the claims(ii)?

Answer:

- e. what was the average cost of other disbursements per case?

Answer:

- f. What was the highest cost of disbursements for a single case in this sample?

Answer:

- g. For cases in which disbursements were claimed, what was the lowest for a single case in this sample?

Answer:

- h. In what percentage of cases were no disbursements claimed?

Answer:

- i. What percentage of the total disbursements claim for this sample is attributable to interpreting and translating costs? - please provide a best estimate if this figure cannot be precisely extrapolated without disproportionate trouble

Answer:

- j. In what percentage of cases were interpreting and translation costs incurred?

Answer:

- k. How many of your claims in this sample included claims for bail applications? If possible, please state or estimate the average number of minutes claimed for the bail element of those cases.

Answer:

13. In respect of asylum CLR (excluding reconsiderations) in the present contract year to the end of July 2006:

- a. how many cases did your organisation report as closed?

Answer:

- b. what was the average number of minutes per case reported?

Answer:

- c. what was the percentage success rate?

Answer:

- d. in how many of these cases were fees for counsel claimed(i), and what was the average amount of the claims(ii)?

Answer:

e. what was the average cost of other disbursements per case?

Answer:

f. What was the highest cost of disbursements for a single case in this sample?

Answer:

g. For cases in which disbursements were claimed, what was the lowest for a single case in this sample?

Answer:

h. In what percentage of cases were no disbursements claimed?

Answer:

i. What percentage of the total disbursements claim for this sample is attributable to interpreting and translating costs? - please provide a best estimate if this figure cannot be precisely extrapolated without disproportionate trouble

Answer:

j. In what percentage of cases were interpreting and translation costs incurred?

Answer:

k. How many of your claims in this sample included claims for bail applications? If possible, please state or estimate the average number of minutes claimed for the bail element of those cases.

Answer:

D. Information about detained cases:

This is a particularly murky area of the proposals so any information additional to that requested above will be welcome.

14. For clients whose cases were closed during the periods covered by this questionnaire, can you indicate for each of those time periods how many or what proportion were detained for any part of the time in which you represented them elsewhere than at an Immigration Removal/Detention Centre?

Answer:

15. Please provide whatever further information or comment you can on the impact of detention on time spent and disbursements incurred.

Answer: