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Dear Mr Garsden,

Thank you for your recent letter and petition regarding the increases to Public Law family court fees. As Policy Manager for Civil and Family Court Fees I have been asked to reply.

As you are no doubt aware the consultation paper '*Public Law family fees*', published on 19 December 2007, set out proposals to increase court fees paid by public authorities in care and adoption proceedings, to reflect the full cost of the process. The consultation closed on 11 March 2008 and received 111 responses from local authorities, lawyers, the judiciary and other stakeholders. The fees were introduced on 1 May 2008.

The Public Law family fee system changed on 1 May 2008 from a flat fee of £150 to scaled fees ranging from £1,725 to £4,825, depending on the stage in child protection proceedings. This reflects the cost of providing the service and transfers the cost of court proceedings from Her Majesty's Courts Service to the authorities that initiate the cases. It is a long-standing policy of Government that statutory fees should be set at a level that recovers the cost of the service provided, in order to ensure a fair and transparent system.

The fee increases were forecast to recover approximately £40m in a full year. A sum matching this increased liability was transferred from the HMCS budget to local authorities and reflected in the local authorities' most recent spending settlements. This applies to all three years of the settlement period and will form part of the baseline for future spending reviews. This additional pressure of £40m represents about 1% of the £4bn total budget of social services departments, and a small fraction of 1% of a local authority's total expenditure.

The £40m transferred is likely to exceed the total fees payable by local authorities as it assumed that the maximum fee (£4,825) would be paid in every case. It does not allow for any savings arising from early resolution under the Public Law Outline. The £40m was not ring-fenced. This is because the Government is committed to ensuring that local authorities have much greater freedom to spend money in a way that suits their particular local

circumstances and priorities, outlined in the 2006 local Government White paper, '*Strong and Prosperous Communities*'.

The fee increases are necessary to ensure the family courts are properly funded and are designed to fit with the wider reforms on child protection proceedings, such as the Public Law Outline, which introduces simpler and more streamlined court processes for care and supervision cases. It promotes the identification, clarity and narrowing of key issues earlier in the case and fixes a timetable for completion based around the needs of each child involved. Robust judicial management is designed to lead to greater focus and fewer unnecessary hearings.

Local authorities have a statutory obligation to protect the interests of children and it would be unlawful for them to avoid taking court proceedings for financial reasons. There is no evidence to suggest that local authorities would act inappropriately due to financial pressures. The Local Government Association and the Association of Directors of Children's Services in their responses to the Public Law Fees Consultation Paper on 11 March 2008 said "There is no evidence to suggest that local authorities would act inappropriately. [We] do not accept that Local Authorities are influenced by cost considerations in their approach to initiating proceedings or in their decision about pre-proceedings work."

A Judicial Review, challenging the decision to introduce the new fee structure was rejected by the High Court on all grounds. Lord Justice Dyson in his judgment said that the compensation given to local authorities was 'sufficient to avoid any real risk that the new fee regime may lead to the interests of vulnerable children being harmed'.

As you know, the recent report published by Lord Laming on the Protection of Children in England recommended that the Ministry of Justice '*Appoint an independent person to undertake a review of the impact of court fees in the coming months. In the absence of incontrovertible evidence that the fees had not acted as a deterrent, they should be abolished from 2010/11 onwards.*' The Secretary of State accepted Lord Laming's recommendation and appointed Mr Francis Plowden to carry out a review of the impact of court fees in care proceedings. Francis Plowden has already commenced work and is expected to present his findings to the Lord Chancellor and Secretary of State later this year.

I have passed a copy of your letter and the Petition to the team conducting the review.

I hope you find this helpful.

Yours Sincerely



Diane Flanders
Policy Manager
Civil and Family Fees Branch