



Association of Child Abuse Lawyers

C/O Abney Garsden McDonald

37 Station Road

Cheadle Hulme

Cheshire SK85AF

Tel: 0161 482 8822 Fax: 0870 990 9350

Web: www.abneys.co.uk

**Response Of ACAL (The Association
Of**

Child Abuse Lawyers) To The

Consultation Paper

“Quality

Relationships Delivering

Quality Outcomes – Preferred

Supplier Scheme”

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WebSite: www.childabuselawyers.com



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ACAL (ASSOCIATION OF CHILD ABUSE LAWYERS)

RESPONSE TO CONSULTATION PAPER

1. ABOUT US

- 1.1 The Association of Child Abuse Lawyers is a professional organisation for lawyers working in the field of compensation for Claimants in the field of Child Abuse Compensation Claims. It provides practical help and support for professionals working in the field. It was formed in response to the growth in compensation claims against charities, Local Authorities and others. One of the main purposes of the organisation was to provide the victim of abuse with a well trained and knowledgeable lawyer who is empathetic to their needs and can provide support throughout the judicial process.
- 1.2 We operate a database of homes where claims have been made, which is accessible through our website, recommended Counsel and experts, and a comprehensive training scheme to assist members. We also provide a network of assistance to Claimant lawyers working the field who need support.
- 1.3 In 2002 we established a panel system backed by training and quality standards for those who wish to receive referrals from the Association. There are fundamental training and experience requirements before any member can be selected for membership of the panel. To get onto the panel one has to demonstrate sufficient experience in child abuse compensation claims, attendance on a 2 day introductory course together with annual practical training.
- 1.4 We have been consulted by Government and consultative bodies upon various initiatives and proposed legislation. We have also submitted responses to other Legal Services Commission consultative documents.

2. **GENERALLY**

- 2.1 Child Abuse Compensation Claims originally qualified under the Personal Injury franchise category. At the end of 1994, they were transferred across into the Actions Against Police franchise category.
- 2.2 Typically, a Child Abuse Compensation Claim involves a considerable amount of work. The cases cover historical allegations against institutions as well as present day claims for children both within the family and stranger abuse. It is necessary to analyse, in a typical case, in minute detail, the first 30-40 years of the Claimant's life. Often the Claimant is unable to face going through a compensation claim until later in life, by which time there are an infinite number of events, which could have contributed to the mental disorder from which they are suffering. We are trying to establish that the abuse suffered in childhood is the cause of the disorder, rather than other life events. Accordingly it is necessary to obtain numerous records from the GP, Social Services, prison etc. Each case runs to many lever arch files.
- 2.3 Accordingly, Child Abuse Compensation Claims are untypical of many cases contemplated for public funding in that each case is large and many hours of work are necessary. The work is not dissimilar however to clinical negligence. The cases are also untypical in that they involve litigation against an opponent against whom one hopes to be successful and recover costs. The Special Cases Unit in Brighton can provide statistics upon request but the vast majority of child abuse compensation claims are successful. Thus the Legal Services Commission are, in the majority of cases, providing interim funding and are reimbursed when the claim for costs is made against the Defendant in successful cases.
- 2.4 Because the number of practitioners around the country is small (ACAL has a membership of 50 solicitors), the work is specialised and "niche" in nature. All the applications for public funding are dealt with by the Special Cases Unit in Brighton who have developed specialist expertise in a small area of work. It is not uncommon for solicitors to travel to see clients, who are usually dysfunctional and find it difficult to manage their lives. Many Claimants are mentally disabled and qualify under the Special Needs category. Most of our clients are disadvantaged and socially excluded. They are thus in the top area of priority for public funding. An entirely different attitude to this type of work is therefore required to other more "mainstream" types of work such as Crime and Family.
- 2.5 The experience of the Association of the existing licensing and contract work is that it was difficult for auditors and other contract officials to understand the nature of the work we do. When Legal Help & Help at Court audits took place, the usual response of the auditors was that they did not understand the type of work we do and found it difficult to understand the amount of time required in this area, particularly when dealing with high maintenance or learning-disabled Claimants.

Most of our members have licenses to do certificated work but not contracts to do Legal Help work.

- 2.6 Child Abuse Compensation Claims cannot be done quickly using systems management and a uniform approach. Each case is different and requires an individual bespoke approach.
- 2.7 Notwithstanding the above, Child Abuse Compensation lawyers can operate efficiently by virtue of their speciality, training, experience and familiarity with the law. Working in a niche market means that the ability to spot “winners” and “losers” is more honed.
- 2.8 This is the type of work where it is necessary for an experienced solicitor to be in charge of the case. The law in this area is new and developing and requires considerable expertise. Each case, for example, involves arguments on Limitation, Liability and Causation.

3. **LARGE SUPPLIERS**

- 3.1 In many places, the consultation document refers to large organisations or a collection of networked organisations operating in one geographical area. The Commission states that it wants to negotiate with fewer suppliers. Because of the nature of Child Abuse Compensation Claims, this mould does not fit the type of work. The size of firms doing this type of work varies enormously. Usually there are one or two fee-earners in a practice dealing with this type of work. Realistically it would not be possible to amalgamate all the ACAL members together in one firm. It would be impractical.
- 3.2 Geographically it is important that the spread of ACAL members throughout the country is maintained and that they are not all condensed together in one unit. This type of work is “niche” and highly specialised.

4. **PEER REVIEW**

- 4.1 In the consultation document it is contemplated that quality assessment of suppliers will be carried out by Peer Reviewers who are described as “An experienced practitioner who meets stringent criteria..... the most important being that their own work has been peer reviewed and rated at 1 or 2 (Excellence or Competence +). “
- 4.2 How many Peer Reviewers will be required to cover the whole country? If there are only 50 members, then will it be possible to run peer reviewing in an efficient and realistic manner? The work is very specialised. Whilst it would be possible for other Personal Injury lawyers in other categories of work to assess Child Abuse cases one would have to be careful who was chosen. Clinical Negligence lawyers with no other experience in child abuse and PI lawyers used to dealing with high value cases, industrial disease, or Forces PTSD cases might be able

fulfil this role. Although this type of work comes under the Actions Against Police category, compensation claims against the police are entirely different from Child Abuse cases. Whether a peer reviewer in the Actions Against Police category would be suitable is difficult to judge.

- 4.3 Judging by the attempts made at auditing Child Abuse cases by non legally qualified auditors under the old scheme, we would be opposed to the peer reviewing role being undertaken by any Executive Officer of the Legal Services Commission.

5. **FILE ASSESSMENT**

- 5.1 From reading the consultation paper it would appear that File Assessment is most similar to the old transaction criteria under the quality mark. It seems that files must be assessed and reach the “pass” status before a firm will be awarded Preferred Supplier status. It is not clear, but this may be a substitute for Peer Review in our category of work. The consultation paper states that if the category of work is not one of the major areas of Family, Crime, Immigration, Mental Health and Clinical Negligence then the firm must achieve a “File Assessment Rating of Pass”. Elsewhere in the consultation paper, it suggests that the File Assessment will be carried out by Peer Review or a suitably experienced executive officer of the Legal Services Commission.
- 5.2 We feel that the File Assessment review and Peer Review sections of the consultation paper have not been thought through clearly enough for categories of work such as Child Abuse Compensation Claims. We feel that the proposed scheme does not fit our type of work and that it will be very difficult to conduct a proper assessment due to a lack of training and understanding this highly specialised area of work.

6. **A WAY FORWARD**

- 6.1 **Supervisor Status** - there appears to be no equivalent criteria in order to achieve Supervisor Status in the area of Child Abuse Compensation work. Can we suggest that the Commission work with us to establish criteria suitable to qualify for supervisor status which has some relation to our training schemes. Further details can be seen on our website – www.childabuselawyers.com.
- 6.2 **File Assessment Protocol** - we have offered to work with the Legal Services Commission in order to arrive at appropriate Quality hallmarks for Child Abuse Compensation cases. Whether or not this is a way forward for so few suppliers, and cases, is a matter for the Commission.

- 6.3 Peer reviewing would be possible but difficult to organise practically, in view of the geographical distance between members of ACAL and the size of the organisation.
- 6.4 Abuse of individuals by members of Public Authorities and those in positions of responsibility is extremely high up on the list of criteria published by the Department of Constitutional Affairs. It is extremely important, therefore, that it continues to receive public funding.
- 6.5 Any of the Executive Officers of ACAL whose contact details can be ascertained from our website, are more than happy to engage in dialogue and/or have meetings with members of the Commission as and when necessary in order to ensure that the new scheme is practical and workable.
- 6.6 Since the association was set up to ensure that survivors of child abuse obtain the best quality of advice and professional support in a very difficult area of work which many lawyers will not involve themselves in , it is extremely important that a proper partnership between the Commission and ACAL (Association of Child Abuse Lawyers) is established so as to ensure that the much needed support for some of the most socially excluded members of our society is maintained. To ensure this happens the preferred suppliers scheme must be adapted if necessary to suit our type of work.

Dated this 5th day of June 2006

Peter Garsden
Vice President
Association of Child Abuse Lawyers
37 Station Road
Cheadle Hulme
Cheshire SK8 5AF

Tel: 0161 482 8822
Website: www.abneys.co.uk

ACAL Association Headquarters
Suite 5 Claremont House
22-24 Claremont Road
Surbiton, Surrey, KT6 4QU

Tel: 020 8390 4701
Website: www.childabuselawyers.com