

<b>Title:</b> Housing Legal Aid: the way forward <b>IA No:</b> MoJ018/2021 <b>RPC Reference No:</b> N/A <b>Lead department or agency:</b> Ministry of Justice <b>Other departments or agencies:</b> Legal Aid Agency (LAA)	<b>Impact Assessment (IA)</b>			
	<b>Date:</b> 30/05/2022			
	<b>Stage:</b> Final			
	<b>Source of intervention:</b> Domestic			
	<b>Type of measure:</b> Secondary legislation			
	<b>Contact for enquiries:</b> civil.legalaid@justice.gov.uk			
<b>Summary: Intervention and Options</b>				<b>RPC Opinion:</b> Not Applicable

Cost of Preferred (or more likely) Option (in 2019 prices)			
Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status
N/A	N/A	N/A	Not a regulatory provision

**What is the problem under consideration? Why is government action or intervention necessary?**

The Housing Possession Court Duty Scheme (HPCDS) offers vital “on-the-day” emergency face-to-face advice and advocacy to anyone facing possession proceedings. Under the scheme, anyone in danger of eviction or having their property repossessed can get free legal advice and representation on the day of their hearing, regardless of their financial circumstances. The HPCDS is vitally important in ensuring access to justice and the timely resolution of legal problems but due to the ongoing incidences of providers withdrawing from contracts, the Ministry of Justice is concerned that the scheme is no longer sustainable in its current form. The Ministry of Justice also wants to ensure that these schemes are delivered in a way which aligns with the way these types of cases will be heard into the future. In response to a consultation on these issues, we think that our preferred option remains the right path but, based on feedback received, we have also made three improvements to option 1 which are described below (in options 1a/b/c).

**What are the policy objectives of the action or intervention and the intended effects?**

The overarching policy objective behind these proposals is to ensure that HPCDS services are as sustainable as possible and that there is availability of this vital service for the clients who need it. An additional policy objective is to ensure that, in the longer-term, the delivery of this scheme aligns with the way housing possession proceedings will be heard into the future, and that the scheme is designed to ensure individuals can resolve legal problems as early as possible, out of court if that is possible and appropriate.

- What policy options have been considered, including any alternatives to regulation?**
- **Option 0/do nothing:** no changes to the current Housing Possession Court Duty Scheme (HPCDS).
  - **Option 1:** Remodel the HPCDS into the Housing Loss Prevention Advice Service (HLPAS).
  - **Option 1a:** Introduce an escape threshold set at three times the fixed fee into the HLPAS.
  - **Option 1b:** Contract a panel to provide expert support on social welfare case matters.
  - **Option 1c:** Pilot the grant funding of publicly funded solicitor training contracts for HLPAS providers.
  - **Option 2:** Allow providers to claim a duty scheme fee in addition to a Legal Help fee for follow on work
  - **Option 3:** Pay providers an attendance fee equivalent to having seen two clients during a session.
  - **Option 4:** Contract for individual courts rather than larger geographic areas.
  - **Option 5:** Implement all of the options 1 to 4 above (preferred option)

<b>Will the policy be reviewed?</b> It will not be reviewed. <b>If applicable, set review date:</b> N/A				
Is this measure likely to impact on international trade and investment?		No		
Are any of these organisations in scope?	<b>Micro</b> Yes/No	<b>Small</b> Yes/No	<b>Medium</b> Yes/No	<b>Large</b> Yes/No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)		<b>Traded:</b>		<b>Non-traded:</b>

*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: \_\_\_\_\_

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Remodel the HPCDS into the Housing Loss Prevention Advice Service (HLPAS), enabling providers to offer early legal advice on social welfare matters to individuals facing possession proceedings before they reach court, in addition to the in-court duty scheme.

## FULL ECONOMIC ASSESSMENT

Price Base Year 2022	PV Base Year N/A	Time Period Years	Net Benefit (Present Value (PV)) (£m)			
			Low: N/A	High: N/A	Best Estimate: N/A	
<b>COSTS (£m)</b>	<b>Total Transition (Constant Price) Years</b>		<b>Average Annual (excl. Transition) (Constant Price)</b>		<b>Total Cost (Present Value)</b>	
Low	N/A		N/A		N/A	
High	N/A		N/A		N/A	
Best Estimate	-		£7.1m		N/A	
<b>Description and scale of key monetised costs by 'main affected groups'</b>						
<ul style="list-style-type: none"> <li>Paying providers of the HLPAS to offer early legal advice in addition to the in-court duty scheme is estimated to result in increased costs to the Legal Aid Fund of approximately £7.1m per annum. Option 1a would increase this to £8.1m, with details of this sub-option shown on the next page. Options 1b and 1c additionally support this option with further improvements beyond fee increases.</li> <li>LAA implementation and ongoing processing costs are expected to be negligible.</li> </ul>						
<b>Other key non-monetised costs by 'main affected groups'</b>						
N/A						
<b>BENEFITS (£m)</b>	<b>Total Transition (Constant Price) Years</b>		<b>Average Annual (excl. Transition) (Constant Price)</b>		<b>Total Benefit (Present Value)</b>	
Low	N/A		N/A		N/A	
High	N/A		N/A		N/A	
Best Estimate	-		£7.1m		N/A	
<b>Description and scale of key monetised benefits by 'main affected groups'</b>						
<ul style="list-style-type: none"> <li>Legal aid providers of the HLPAS will receive additional remuneration where they deliver early legal advice under the scheme. They are expected to receive in total approximately £7.1m.</li> </ul>						
<b>Other key non-monetised benefits by 'main affected groups'</b>						
<ul style="list-style-type: none"> <li>It is expected that allowing providers to claim a fee for delivering early legal advice as well as the in-court duty scheme will make delivering these services more financially viable.</li> <li>If the provision of early legal advice successfully resolves a proportion of cases before court, this will reduce costs for HM Courts &amp; Tribunals Service (HMCTS).</li> <li>Implementing this option will help to maintain access to justice for individuals facing possession proceedings in England and Wales.</li> </ul>						
<b>Key assumptions/sensitivities/risks</b>					<b>Discount rate</b>	N/A
<ul style="list-style-type: none"> <li>It is assumed that all HPCDS claims (based on 2019 volumes) will also receive early legal advice. In practice, we do not expect all HPCDS claims to also receive early legal advice, and also expect some claims which receive early legal advice to be resolved before court, which will offset some of the costs.</li> </ul>						

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: N/A	Benefits: N/A	Net: N/A	

# Summary: Analysis & Evidence

# Policy Option 2a

**Description:** Introduce an escape threshold set at three times the fixed fee into the HLPAS.

## FULL ECONOMIC ASSESSMENT

Price Base Year 2022	PV Base Year N/A	Time Period Years	Net Benefit (Present Value (PV)) (£m)			
			Low: N/A	High: N/A	Best Estimate: N/A	
<b>COSTS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant)		<b>Total Cost</b> (Present Value)	
Low	N/A		N/A		N/A	
High	N/A		N/A		N/A	
Best Estimate	-		£1m		N/A	
<b>Description and scale of key monetised costs by 'main affected groups'</b>						
Introducing an escape threshold for HLPAS Stage One advice, mirroring the approach currently taken for Legal Help matters under the Standard Civil Contract specification, is estimated to result in increased costs to the Legal Aid Fund of approximately £1m per annum						
<b>Other key non-monetised costs by 'main affected groups'</b>						
N/A						
<b>BENEFITS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant)		<b>Total Benefit</b> (Present Value)	
Low	N/A		N/A		N/A	
High	N/A		N/A		N/A	
Best Estimate	-		£1m		N/A	
<b>Description and scale of key monetised benefits by 'main affected groups'</b>						
<ul style="list-style-type: none"> <li>Legal providers for the HLPAS will receive additional remuneration if the hours they spend on a case reaches the escape threshold. Once cases escape, providers will be able to claim at the existing hourly rates set out in the Civil Legal Aid (Remuneration) Regulations.</li> </ul>						
<b>Other key non-monetised benefits by 'main affected groups'</b>						
<ul style="list-style-type: none"> <li>It is expected that allowing providers to claim at hourly rates for more complex cases that reach the escape threshold under Stage One, will make delivering these services more financially viable.</li> <li>This should ensure complex cases do not become unattractive to providers, and mitigate instances where providers have to stop short of fully resolving a complex issue, leading to a better service for clients.</li> <li>Implementing this option will help to maintain access to justice for individuals facing possession proceedings in England and Wales.</li> </ul>						
<b>Key assumptions/sensitivities/risks</b> (%)					Discount rate	N/A
Our costings are informed by the proportion of cases that escaped when the matters that will be advised on under Stage One (welfare benefits, debt, housing) were previously in scope prior to the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO). The base volumes for this estimate are equal to those of Option 1. We assume that an escape threshold will make HLPAS work more sustainable but will not increase the volumes expected.						

## BUSINESS ASSESSMENT (Option 2)

<b>Direct impact on business (Equivalent Annual) £m:</b>			<b>Score for Business Impact Target (qualifying provisions only) £m:</b>
Costs: N/A	Benefits: N/A	Net: N/A	
			N/A

# Summary: Analysis & Evidence

# Policy Option 3b

**Description:** Contracting a panel to provide expert support on social welfare case matters.

## FULL ECONOMIC ASSESSMENT

Price Base Year 2022	PV Base Year N/A	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant)	Total Cost (Present Value)
Low	N/A		£0.6m	N/A
High	N/A		£1.2m	N/A
Best Estimate	-		N/A	N/A

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

Contracting a panel of legal experts to assist and upskill providers in social welfare law matters is estimated to result in increased costs to the Legal Aid Fund of approximately £0.6m-£1.2m per annum, depending on the number of advisors contracted for the panel.

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

N/A

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant)	Total Benefit (Present Value)
Low	N/A		£0.6m	N/A
High	N/A		£1.2m	N/A
Best Estimate	N/A		£0.6m	N/A

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

- Legal Aid Providers of the HLPAS will receive specialist advice worth £0.6m to £1.2m per annum.

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

- This option should make delivering the service more financially viable for providers, as this service will save organisations money on upskilling staff and could, in some instances, reduce the amount of time spent on cases.
- It is expected that this will lead to a better service for clients, as providers will have additional support in resolving matters in which they lack knowledge or experience.
- Implementing this option will help to maintain access to justice for individuals facing possession proceedings in England and Wales.

### Key assumptions/sensitivities/risks

Discount rate

N/A

- The cost of the new advice system is based on a previous Specialist Support service. The volume of work received by the service will affect the costs of the service, as the amount paid depends on the number of advice hours used out of those contracted.
- For the best estimate, we have used the cost of a smaller scale system, as demand for advice is unlikely to reach volumes seen by the Specialist Support Service. In the long run, increases in system scale may be needed to cope if demand for advice rises.

## BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: N/A	Benefits: N/A	Net: N/A	
			N/A

# Summary: Analysis & Evidence

# Policy Option 4c

**Description:** Piloting the grant funding of publicly funded solicitor training contracts for HLPAS providers

## FULL ECONOMIC ASSESSMENT

Price Base Year 2022	PV Base Year N/A	Time Period Years	Net Benefit (Present Value (PV)) (£m)			
			Low: N/A	High: N/A	Best Estimate: N/A	
<b>COSTS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant		<b>Total Cost</b> (Present Value)	
Low	N/A		N/A		N/A	
High	N/A		N/A		N/A	
Best Estimate	-		£1m		N/A	
<b>Description and scale of key monetised costs by 'main affected groups'</b>						
Piloting the grant funding of publicly funded solicitor training contracts is estimated to result in increased costs to the Legal Aid Agency of £1m per annum.						
<b>Other key non-monetised costs by 'main affected groups'</b>						
The costs accounted for in this option only include most or all of the salary and examination costs. Legal aid providers may need to provide for any other costs of trainees, including recruitment, extra training, national insurance, and pensions.						
Once trained, it is expected that new solicitors will enter the Legal Aid provider workforce and may contribute work within Legal Aid beyond the initial estimates of Option 1.						
<b>BENEFITS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant		<b>Total Benefit</b> (Present Value)	
Low	N/A		N/A		N/A	
High	N/A		N/A		N/A	
Best Estimate	-		£1m		N/A	
<b>Description and scale of key monetised benefits by 'main affected groups'</b>						
<ul style="list-style-type: none"> <li>The Providers who take up this scheme will receive benefit equal to approximately £800,000 worth of labour, and new trainees will receive a benefit of around £200,000 in examination costs.</li> <li>Offices who take up this scheme will be better able to sustain the operations required for Option 1. This means they will benefit from a share of the £7.1m additional remuneration counted within Option 1 that they would not otherwise have been able to.</li> </ul>						
<b>Other key non-monetised benefits by 'main affected groups'</b>						
<ul style="list-style-type: none"> <li>It is expected that this option will make delivering the service more financially viable for providers, as it will save organisations money on upskilling and recruiting staff.</li> <li>Implementing this option will help to maintain access to justice for individuals facing possession proceedings in England and Wales, as it will ensure a pipeline into the profession.</li> <li>Once trained, these new solicitors will likely enter the Legal Aid provider workforce and may contribute work within Legal Aid beyond the initial estimates of Option 1. Legal aid providers taking on these solicitors will benefit from this long-run increase in the workforce, contributing to fee earnings.</li> </ul>						
<b>Key assumptions/sensitivities/risks</b>					<b>Discount rate</b>	N/A
<ul style="list-style-type: none"> <li>It is assumed that the net benefit provided by these training contracts will be attractive enough to encourage offices to take up the scheme. This will require demand for HLPAS to reach a point at which the work done by the trainees equals cost to offices of taking on new trainees. This means that this option inherits the same risks and assumptions of Option 1's volume assumptions.</li> </ul>						

## BUSINESS ASSESSMENT (Option 4)

<b>Direct impact on business (Equivalent Annual) £m:</b>			<b>Score for Business Impact Target (qualifying provisions only) £m:</b>
Costs: N/A	Benefits: N/A	Net: N/A	
			N/A

# Summary: Analysis & Evidence

# Policy Option 2

**Description:** Allow providers to claim an in-court duty scheme fee in addition to a Legal Help fee for follow on work.

## FULL ECONOMIC ASSESSMENT

Price Base Year 2022	PV Base Year N/A	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	N/A	£0.03m	N/A

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

- Paying an in-court duty scheme fee in addition to any subsequent Legal Help fee is estimated to result in increased expenditure from the Legal Aid Fund of approximately £30,000 per year.
- LAA implementation and ongoing processing costs are expected to be negligible.

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

N/A

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	N/A	£0.03m	N/A

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

- Legal Aid Providers of the HLPAS will receive increased remuneration when a client is subsequently given Legal Help. They are expected to receive in total approximately £30,000.

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

- It is expected that allowing providers to claim both the in-court duty scheme fee and the Legal Help fee will make delivering these services more financially viable for legal service providers.
- If allowing providers to claim both the in-court duty scheme fee and the Legal Help fee increases the availability of follow up advice and results in a more sustainable service, then this could lead to better outcomes for individuals facing possession proceedings in the courts in England and Wales.
- Implementing this option will help to maintain access to justice for individuals facing possession proceedings in England and Wales.

### Key assumptions/sensitivities/risks

Discount rate

N/A

- The financial impacts are based on HPCDS volumes in 2019, as a year unaffected by the reduction in volumes due to Covid-19.

## BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: N/A	Benefits: N/A	Net: N/A	
			N/A

# Summary: Analysis & Evidence

# Policy Option 3

**Description:** Pay providers an attendance fee equivalent to having seen two clients during a session.

## FULL ECONOMIC ASSESSMENT

Price Base Year 2022	PV Base Year N/A	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A		N/A	N/A
High	N/A		N/A	N/A
Best Estimate	-		£0.3m	N/A

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

- Paying an attendance fee to providers if the number of clients at a session is low is estimated to result in increased expenditure from the Legal Aid Fund of approximately £0.3m per year.
- LAA implementation and ongoing processing costs are expected to be negligible.

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

N/A

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A		N/A	N/A
High	N/A		N/A	N/A
Best Estimate	-		£0.3m	N/A

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

- Legal Aid Providers of the HLPAS will receive increased remuneration for sessions where there are few clients. They are expected to receive in total approximately £0.3m per year.

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

- It is expected that introducing an attendance fee in place of the existing nil session fee will make it more financially viable for legal service providers to deliver these services at courts with low volumes.
- Individuals facing possession proceedings in courts that become more viable, likely in rural areas, will receive a better service than they do currently as this proposal will ensure sufficient provision is available.
- Implementing this option will help to maintain access to justice for individuals facing possession proceedings in England and Wales.

### Key assumptions/sensitivities/risks

Discount rate

N/A

- The financial impacts are based on HPCDS volumes in 2019, as a year unaffected by the reduction in volumes due to Covid-19.

## BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: N/A	Benefits: N/A	Net: N/A	
			N/A

# Summary: Analysis & Evidence

# Policy Option 4

**Description:** Contracting for individual courts rather than larger geographic areas.

## FULL ECONOMIC ASSESSMENT

Price Base Year 2022	PV Base Year N/A	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A
COSTS (£m)		Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)	
Low		N/A	N/A	N/A	
High		N/A	N/A	N/A	
Best Estimate		N/A	N/A	N/A	
<b>Description and scale of key monetised costs by ‘main affected groups’</b> <ul style="list-style-type: none"> <li>The impacts of this option cannot be easily monetised at this stage, as the proposal is a new approach to how these services are contracted rather than a change to how they are remunerated.</li> </ul>					
<b>Other key non-monetised costs by ‘main affected groups’</b> <ul style="list-style-type: none"> <li>N/A</li> </ul>					
BENEFITS (£m)		Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)	
Low		N/A	N/A	N/A	
High		N/A	N/A	N/A	
Best Estimate		N/A	N/A	N/A	
<b>Description and scale of key monetised benefits by ‘main affected groups’</b> N/A					
<b>Other key non-monetised benefits by ‘main affected groups’</b> <ul style="list-style-type: none"> <li>Contracting for individual courts will help providers operate more dynamically. Offices will be able to contract for areas which better suit their capacity and scale, with smaller offices being able to contract for local courts without needing to serve a larger area. Larger offices will maintain their ability to serve a wider area by contracting for multiple courts.</li> <li>Contracting for individual courts could also make use of local knowledge and allow providers to focus on delivering these services at courts where they are more attuned to the day-to-day running, routine and procedures of the court. This could lead to a better service for clients as they could benefit from this expertise, whilst they could also benefit from continuity of service in terms of follow up advice – for example, follow up meetings to resolve the issues which initially led to possession proceedings.</li> <li>Implementing this option will help to maintain access to justice for individuals facing possession proceedings in England and Wales.</li> </ul>					
Key assumptions/sensitivities/risks			Discount rate	N/A	
N/A					

## BUSINESS ASSESSMENT (Option 4)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: N/A	Benefits: N/A	Net: N/A	
			N/A

# Summary: Analysis & Evidence

# Policy Option 5

**Description:** Implement all of options 1 to 4 above together (preferred option).

## FULL ECONOMIC ASSESSMENT

Price Base Year 2022	PV Base Year N/A	Time Period Years	Net Benefit (Present Value (PV)) (£m)			
			Low: N/A	High: N/A	Best Estimate: N/A	
<b>COSTS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Cost</b> (Present Value)	
Low	N/A		N/A		N/A	
High	N/A		N/A		N/A	
Best Estimate	-		£10.3m		N/A	
<b>Description and scale of key monetised costs by 'main affected groups'</b>						
<ul style="list-style-type: none"> <li>Implementing all four options together, as a package, is estimated to result in increased costs to the Legal Aid Agency of approximately £10.3m per annum.</li> <li>LAA implementation and ongoing processing costs are expected to be negligible compared to the 'do nothing' option, since this work will have to be retendered in any event.</li> </ul>						
<b>Other key non-monetised costs by 'main affected groups'</b>						
N/A						
<b>BENEFITS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Benefit</b> (Present Value)	
Low	N/A		N/A		N/A	
High	N/A		N/A		N/A	
Best Estimate	-		£10.3m		N/A	
<b>Description and scale of key monetised benefits by 'main affected groups'</b>						
<ul style="list-style-type: none"> <li>Legal Aid Providers of the HLPAS will receive increased remuneration when they deliver this work. They are expected to receive in total approximately £8.4m per year.</li> <li>Legal Aid Providers of the HLPAS are expected to receive financial contributions towards training when taking part in Option 1c, amounting to a total of £1m per year.</li> <li>Legal Aid Providers of the HLPAS are expected to receive specialist advice worth £0.6m per year.</li> </ul>						
<b>Other key non-monetised benefits by 'main affected groups'</b>						
<ul style="list-style-type: none"> <li>Implementing these four proposals together should make these services more financially sustainable for providers to deliver.</li> <li>Implementing these four proposals should increase the availability of early legal advice and follow up advice for clients, which should lead to a more effective service and less burden on the courts.</li> <li>Implementing these four proposals should ensure access to justice for individuals facing possession proceedings in England and Wales.</li> </ul>						
<b>Key assumptions/sensitivities/risks</b>					<b>Discount rate</b>	N/A
<ul style="list-style-type: none"> <li>The financial impacts assume 2019 HPCDS volumes. In practice, there is likely to be some variation in volumes from year-to-year.</li> <li>The best estimate for this combined option uses the sum of best estimates of those options combined. The sum of low and high estimates are not included as these would represent an unlikely range of all worst/best possible scenarios.</li> </ul>						

## BUSINESS ASSESSMENT (Option 5)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: N/A	Benefits: N/A	Net: N/A	

# Evidence Base

## A. Background

1. The Housing Possession Court Duty Schemes (HPCDS) offer “on-the-day” emergency face-to-face advice and advocacy to anyone facing possession proceedings in court. This means that anyone in danger of being evicted from their home or having their property repossessed can get free legal advice and representation on the day of their court hearing, regardless of their financial circumstances. The HPCDS plays a vital role in ensuring access to justice for these individuals and resolving these serious civil problems.
2. Given the vital role these services play in ensuring access to justice and the timely resolution of legal problems, the sustainability of the service is of paramount importance. The government is concerned that these services are not currently sustainable, evidenced by the ongoing incidence of providers pulling out of contracts. Whilst continuity of service has been maintained to date, there is a risk that gaps in service provision may appear which has the potential to have a negative impact on the clients who rely upon this vital service. In addition, the necessity of regularly re-tendering the service following the withdrawal of a provider adds to the administrative burden on the Legal Aid Agency (LAA) and does not provide value for money for the taxpayer.
3. Alongside this, the wider landscape in which these services are operating is changing. The pandemic necessitated an immediate change in how possession proceedings were being dealt with by the court, and further changes are likely needed in how these proceedings are dealt with in the future. We want to ensure that the delivery model for these services is appropriate for these new arrangements, including ensuring the scheme is effective at resolving cases as quickly as possible. The government is therefore consulting on options for the future of the scheme to ensure its long-term sustainability.
4. In developing the proposals discussed in this Impact Assessment (IA), we have engaged with stakeholders to understand what is and is not working about the way these services are currently being delivered and to understand the impact of the pandemic. We have also carefully considered the responses to the consultation and adapted the original proposals on the basis of the feedback received by respondents. We will continue working closely with stakeholders as these proposals are implemented.

## B. Policy Rationale and Objectives

### Rationale

5. The conventional economic approaches to government intervention are based on efficiency or equity arguments. Governments may consider intervening if there are strong enough failures in the way markets operates (e.g. monopolies overcharging consumers) or there are strong enough failures in existing government interventions (e.g. waste generated by misdirected rules), where the proposed new interventions 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 vulnerable groups in society).
6. The rationale for government intervention in this instance is both equity and efficiency. Equity because this intervention aims to improve the sustainability of these services so they continue to be available for clients that need them. These proposed changes will also generate efficiencies by improving the effectiveness of the scheme so that cases are resolved more quickly, ensuring a better service for clients and reducing costs later in the process (and burdens on other public services) by resolving legal issues as early as possible. The options assessed in this IA represent a responsible and practical response to the issues emerging from the evidence gathering we have undertaken and ensure the sustainability of these services for those who need them.

## Policy Objectives

7. The associated policy objective is to ensure these services are financially viable and logistically deliverable into the future, maintaining these vital services for those clients who rely upon them.
8. In addition, beyond making these services more sustainable, the reformed service should seek to resolve housing possession issues earlier in the process, so reducing the demand on the courts where possible and leading to better outcomes for individuals facing possession proceedings.

## C. Affected Stakeholder Groups, Organisations and Sectors

9. The proposals assessed in this IA are expected to directly affect the following groups:
  - Individuals facing possession proceedings in the courts in England and Wales
  - Housing Possession Court Duty Scheme / Housing Loss Prevention Advice Service providers
  - The Legal Aid Agency (LAA)
  - HM Courts and Tribunal Services (HMCTS)

## D. Description of options considered (including status-quo)

10. To meet the policy objectives, the following options are assessed in this IA:
  - **Option 0/do nothing:** the Housing Possession Court Duty Scheme (HPCDS) remains an in-court duty scheme only under existing remuneration and administration rules.
  - **Option 1:** Reforming the HPCDS to the Housing Loss Prevention Advice Service (HLPAS), enabling providers to offer early legal advice on social welfare law matters to individuals facing possession proceedings before they reach court, in addition to the in-court duty scheme. This option is supplemented by three further options which we have developed in response to the consultation:
    - **Option 1a:** Introduce an escape threshold set at three times the fixed fee into the HLPAS.
    - **Option 1b:** Contracting a panel to provide expert support on social welfare case matters.
    - **Option 1c:** Piloting the grant funding of publicly funded solicitor training contracts for HLPAS providers.
  - **Option 2:** Allow providers to claim an in-court duty scheme fee in addition to a Legal Help fee for follow on work.
  - **Option 3:** Pay providers an attendance fee equivalent to having seen two clients during a session.
  - **Option 4:** Contracting for individual courts rather than larger geographic areas.
  - **Option 5:** Implement all of the options 1 to 4 above.
11. The preferred option is Option 5: implement options 1 to 4 together as a package. This will create a new service for the delivery of legal advice and representation in housing possession proceedings.

12. Implementing the preferred option will require affirmative secondary legislation. It will also require amendments to the relevant legal aid contract and a full retender of that contract, which will be undertaken by the LAA.

#### **Option 0: Base Case/Do nothing**

13. Under the 'do nothing' or 'base case' the current HPCDS would remain unchanged.

14. Under this option, there would be no change in the current sustainability of these services, no reduction in the burden on the courts nor better outcomes for individuals facing possession proceedings.

#### **Option 1: Reforming the HPCDS to the Housing Loss Prevention Advice Service (HLPAS), enabling providers to offer early legal advice on social welfare law matters to individuals facing possession proceedings before they reach court, in addition to the in-court duty scheme.**

15. Under the current HPCDS, advice is only available at court on the day of a hearing. Under option 1, the current delivery model for these services will be reformed to introduce a new wider service: The Housing Loss Prevention Advice Service (HLPAS).

16. The HLPAS will retain the key element of the current HPCDS; the in-court duty scheme. However, it will also introduce access to early legal advice in social welfare law for those facing possession proceedings.

17. Whilst providers who deliver the HLPAS will be required to continue to deliver a duty scheme at the relevant court, they will also be paid to provide early legal advice to individuals facing possession proceedings. Under this option an individual will be eligible for this additional early legal advice where they have received a notice of a possession hearing from the court with the advice being delivered in the period between the client receiving that notice and the hearing date.

#### **Option 1a: Introduce an escape threshold set at three times the fixed fee into the HLPAS.**

18. This option will introduce an escape threshold set at three times the value of the fixed fee (£471), for advice under Stage One of HLPAS, to ensure complex cases do not become unattractive to providers. An escape threshold is a level of cost (assessed at hourly rates) at which cases will be paid hourly rates rather than the fixed fee. This decreases the chances that offices will be significantly under-remunerated for individual high complexity cases. The criteria for establishing whether a case can escape will mirror the approach currently taken for Legal Help matters under the Standard Civil Contract specification. Where work done by a provider reaches the threshold, they will be able to claim at the existing hourly rates set out in the Civil Legal Aid (Remuneration) Regulations 2013.

#### **Option 1b: Contracting a panel to provide expert support on social welfare case matters.**

19. This option will introduce a contracted panel of legal experts to assist and upskill providers where they need further support in social welfare law matters. This will be modelled on the Specialist Support contracts which used to be tendered by the Legal Services Commission. This new panel will offer services like telephone support on casework to less experienced providers, and training courses for new providers, all delivered by lawyers experienced in these social welfare areas of law.

#### **Option 1c: Piloting the grant funding of publicly funded solicitor training contracts for HLPAS providers.**

20. This option will fund a set number of legal training contracts to support providers in training and recruiting the additional staff needed to deliver this service. We intend to grant fund a limited number of training contracts to some providers who successfully bid for a new HLPAS contract, which could be focused in areas of the country with less housing or wider social welfare law legal aid provision. This will be a limited pilot in the first instance.

**Option 2: Allow providers to claim an in-court duty scheme fee in addition to a Legal Help fee for follow on work.**

21. Under the current scheme, if a provider sees a client under HPCDS and then subsequently opens a Legal Help matter, they are only allowed to claim the Legal Help fee, despite having also done some work under HPCDS. Providers have previously told us that after a court hearing a significant amount of follow up work is often necessary. Providers have also told us that the ability to claim both fees together would make the work more attractive.
22. This option will allow providers to claim a follow-on Legal Help fee in addition to any fees claimed under the HLPAS. We believe this will help create a more effective, comprehensive service for clients and a more sustainable service for providers.

**Option 3: Pay providers an attendance fee equivalent to having seen two clients during a session.**

23. Under the current HPCDS model, where a provider has attended court but no clients are seen during a HPCDS session, the provider receives a 'nil-session' fee. This fee is equivalent to what the provider would have been paid had they seen just one client during the session - £75.60 excluding VAT in London and £71.55 excluding VAT outside of London. It is paid on the basis that, despite not having seen any clients, providers have attended court and made themselves available and therefore should be remunerated in some way for their time.
24. Providers have previously told us in relation to the HPCDS that it can be difficult to successfully deliver the HPCDS at courts with low volumes, because the payment for low volumes of work did not always cover the costs of delivering the service. Given that the courts with the lowest volumes of cases tend to be in rural areas, the cost of delivering the service is also likely to be higher in these areas due to travel costs.
25. This option will introduce a set attendance fee in place of the existing nil session fee, which will double the fee currently available to £151.20 excluding VAT in London and £143.10 excluding outside of London, equivalent to what a provider would receive having seen two clients under the current scheme. This fee will be payable where providers see one or two clients during a single in-court session, or if they attended court for a nil session.
26. We believe that this is a fair and equitable approach to ensure that the delivery of this service is financially viable regardless of the court in which it is delivered and that providers are not penalised if they are continuing to provide an in-court duty scheme, ensuring access to justice is maintained despite no cases being listed or defendants not seeking advice at court.

**Option 4: Contracting for individual courts rather than larger geographic areas.**

27. Option 4 will allow the LAA to contract for services based on individual courts rather than larger geographic areas. This will allow providers based in proximity to the court to travel with greater ease and at lower cost, helping to ensure more providers bid to deliver this service in the future.
28. This option will make use of local knowledge and allow providers to focus on delivering these services at a court where they are more attuned to the day-to-day running, routine and procedures. This will lead to a better service for clients who will also benefit from continuity of service in terms of follow up advice – for example, follow up meetings to resolve the issues which initially led to possession proceedings.
29. Although we believe that contracting for individual courts is a practical and pragmatic approach to ensure the sustainability of these services, we appreciate that some providers, perhaps those which are larger organisations, will still be interested in delivering these services at multiple courts. Services will be tendered in a way in which prospective providers will be able to bid to deliver the service at multiple courts, if they wish.

**Option 5: All of the options 1 to 4 above**

30. Under this option all of options 1 to 4 above will be implemented together, as a package.

## E. Cost & Benefit Analysis

31. This IA follows the procedures and criteria set out in the Impact Assessment Guidance and is consistent with the HM Treasury Green Book.
32. Where possible, this IA identifies both monetised and non-monetised impacts on individuals, groups and businesses in England and Wales with the aim of understanding what the overall impact on society might be from the options under consideration. The costs and benefits of each proposal are compared to option 0, the do nothing or 'baseline' case. As the 'baseline' option is compared to itself, the costs and benefits are necessarily zero.
33. IAs place a strong focus on the monetisation of costs and benefits. There are often, however, important impacts that cannot sensibly be monetised. These might be impacts on certain groups of society or some data privacy impacts, positive or negative. Impacts in this IA are therefore interpreted broadly, to include both monetisable and non-monetisable costs and benefits, with due weight given to those that are non-monetisable.
34. Where costs and benefits are monetisable we have estimated the steady state implications of the policy change, as the cases involved are relatively short and so steady state will be reached very quickly. We have not applied optimism bias in these estimates, although we note that there is uncertainty over the future volumes of the services in this IA currently. Values over £50,000 are rounded to the nearest £0.1m, while values under this are rounded to the nearest £10,000, apart from specific fee values which are quoted exactly. All figures include VAT, unless otherwise stated.
35. We have used administrative data which the LAA collects to process claims in order to identify the likely financial impact of the options considered. We have used the financial year 2019-20 as the reference, as we expect that in the long run volumes are likely to return to this level although volumes continue to be suppressed because of the coronavirus pandemic at present. LAA administrative data has been sufficient to estimate the costs of the fee changes without any additional evidence, assuming no behavioural change. In relation to option 1 we have also used HMCTS data to identify an additional scenario where uptake of the new service could rise.
36. We believe this level of analysis is proportionate as, although there remains uncertainty about the pandemic recovery and actual uptake of the new service, it is unlikely that costs will rise above the higher scenario for option 1. We have considered that it is better to implement this new approach sooner, rather than pausing to generate a new evidence base which would be based on the current unique circumstances and may not be able to guide policy making for the long term.

### **Option 1: Reforming the HPCDS to the Housing Loss Prevention Advice Service (HLPAS), enabling providers to offer early legal advice on social welfare matters to individuals facing possession proceedings before they reach court, in addition to the in-court duty scheme.**

#### *Methodology*

37. LAA data has been used to estimate the costs and benefits of Option 1.

#### *Volumes*

38. In 2019 there were 37,700 claims under the HPCDS. This figure has been used as the expected volumes of future cases that will receive advice through the HLPAS. This assumes that the total volume of HLPAS clients will be the same as the number of HPCDS clients in 2019, and that these clients will all continue to use the in-court service as well.
39. In reality we expect that the HLPAS will resolve some clients' issues earlier (reducing demand on in-court services), but also this new service might attract a higher proportion of individuals facing possession proceedings to seek legal aid (an increasing demand on the HLPAS) – these opposite pressures could lead to a higher or lower overall cost, so we assess a higher cost scenario in the "Risks and Assumptions" section below.
40. We propose to move the trigger point for this service forward to when possession proceedings are first notified. Based on feedback to the consultation, we expect that this will facilitate a process which

the expected 37,700 claims will be able to access the service earlier, rather than increase volumes above this.

## Costs

41. Under the new HLPAS, providers who deliver early legal advice to a client facing possession proceedings will be paid a Stage One fee of £157 plus VAT while providers who deliver advice in-court to a client will be paid a Stage Two fee of £75.60 plus VAT in London and £71.55 plus VAT outside of London.

## Costs of Option 1

### Monetised Costs

#### *Legal Aid Agency*

42. The additional cost of providing the early advice will be the volume described in paragraph 38 (37,700), paid at the proposed new housing Legal Help fee (£157 excluding VAT) each time. This option will therefore lead to an increased cost of £7.1m per year to the Legal Aid Fund in steady state, as work that was previously not remunerated by the HPCDS will now be paid under the HLPAS.

43. No implementation or administrative costs are expected to arise in association with this option.

## Benefits of Option 1

### Monetised Benefits

#### *Housing Possession Court Duty Scheme / Housing Loss Prevention Advice Service providers*

44. Providers of these services will receive an expected increase in fee income of approximately £7.1m per year, and there will be a benefit to clients of additional legal services of the same value.

### Non-monetised Benefits

#### *Housing Possession Court Duty Scheme / Housing Loss Prevention Advice Service providers*

45. Remunerating providers for this additional early legal advice work which is not remunerated under the HPCDS will make delivering these services more financially viable for legal service providers.

#### *Individuals facing possession proceedings in the courts in England and Wales*

46. Individuals facing possession proceedings will be able to access legal advice earlier in the process, and on a wider range of issues, which may allow them to resolve their issue earlier and lead to better outcomes.

47. If remunerating providers for this additional work leads to a more sustainable service, this could lead to better outcomes for individuals facing possession proceedings in the courts in England and Wales, as well as helping to ensure access to justice.

#### *HM Courts and Tribunals Service*

48. If the wider availability of early legal advice leads to possession proceedings being resolved earlier in the process then this may lead to fewer cases reaching court which could reduce costs for HM Courts and Tribunals Service as there will be fewer hearings required. We have not attempted to quantify this cost, but it is likely to be wholly or partially offset by a reduction in court fee income.

## **Option 1a: Introduce an escape threshold set at three times the fixed fee into the HLPAS.**

### *Methodology*

49. LAA data has been used to estimate the costs and benefits of Option 1a.

### *Volumes*

50. The volume of cases undertaken is not expected to change from that estimated in option 1.

### *Costs*

51. Option 1a is expected to pay a portion of higher-value cases within Option 1 at hourly rates instead of the £157 fixed fee. To estimate the cost increase for these cases we looked at cases which used to escape in the housing, welfare benefits and debt categories prior to April 2013 – this is when the case mix of these categories was more similar to that which we are expecting under the HPLAS. For these cases, on average around 4% to 5% of cases would escape and would cost between 3 and 5 times as much as the fixed fee. Assuming a similar proportion of cases escape, and those that do cost a similar amount, we estimate the additional cost of paying these cases at escape rates (rather than fixed fees) to be around £1m. The shift in cost from fixed fee to hourly rate is accounted for within this additional cost estimate.

## **Costs of Option 1a**

### Monetised Costs

#### *Legal Aid Agency*

52. This option will lead to an increased cost of £1m per year to the Legal Aid Fund in steady state, as more complex work will be paid a higher fee.

## **Benefits of Option 1a**

### Monetised Benefits

#### *Housing Possession Court Duty Scheme / Housing Loss Prevention Advice Service providers*

53. This option will lead to an increased income of £1m per year to the legal aid providers in steady state, as more complex work will be paid a higher fee.

### Non-monetised Benefits

#### *Housing Possession Court Duty Scheme / Housing Loss Prevention Advice Service providers*

54. The intention is that by removing the disincentive to do more complex work, providers will be able to take on all cases on their merits, and there will be a positive impact on provider sustainability.

#### *Individuals facing possession proceedings in the courts in England and Wales*

55. By removing the disincentive to do more complex work under this new scheme, clients will get the amount of legal service they require without providers having to consider if the work is too costly to continue for the fixed fee available.

#### *HM Courts and Tribunals Service*

56. Additional legal help for the most complex cases is likely to shorten cases when they come to court.

## **Option 1b: Contracting a panel to provide expert support on social welfare case matters.**

### *Methodology*

57. A review of the Specialist Support service which ran from 2008 to 2012 has been used to estimate the costs of this option. The Specialist Support service included advice for a wider range of legal

services than those in scope for this option. Only the costs of advice hours relevant to Housing, Welfare, and Debt advice have been included.

### *Volumes*

58. As there is no unit volume for this option, the number of advisors required to run the panel at any one time is a decision that will need to be made within the option. The range in cost shows the difference between a panel of three advisors and a panel of six advisors. This does not mean a total of three or six advisors for the whole system, but instead means that three or six specialists will need to be available at any one time during operating hours. This also means that the total number of panel members will be greater than this in order to cover all required hours.

### *Costs*

59. We expect the system to be paid at hourly rates, with a rate given for availability, and an added rate given for advice hours. As the experience of the Specialist Support system was that 78% of all its hours were used for advice, we have assumed that the panel will see a similar level of demand. If the panel is paid at the same rates as the Specialist support service (£30 per hour, plus £70 for each hour of advice used) and contracted to work the same hours, a three-advisor team would cost £0.6m per annum in steady state, while a six-advisor team would cost £1.2m.

## **Costs of Option 1b**

### *Monetised Costs*

#### *Legal Aid Agency*

60. This option will cost the Legal Aid fund £0.6 to £1.2m depending on the scale needed.

## **Benefits of Option 1b**

### *Monetised Benefits*

#### *Housing Possession Court Duty Scheme / Housing Loss Prevention Advice Service providers*

61. Housing Loss Prevention Advice Service (HLPAS) providers are likely to see a financial benefit from the training and upskilling offered by this advice service. This is a cost that service providers would otherwise have had to pay to train the staff required for HLPAS. We have valued the specialist advice given as a benefit equal to the cost of its provision, though in practice, the financial benefit seen by providers may differ.

### *Non-monetised Benefits*

#### *Housing Possession Court Duty Scheme / Housing Loss Prevention Advice Service providers*

62. HPCDS providers who may not currently have the skilled practitioners necessary to keep up with the demands of Option 1 will be better able to scale up operations to keep up with new demand, making provision of this option more sustainable for providers of the new HLPAS.

#### *Individuals facing possession proceedings in the courts in England and Wales*

63. Providing specialist advice to HLPAS practitioners will make the delivery of these services more sustainable for providers, improving both accessibility and quality of advice for individuals who face possession proceedings.

#### *HM Courts and Tribunals Service*

64. This option is intended to improve provision outcomes expected by Option 1. Its implementation will work towards ensuring Option 1 improves the chances of resolution before cases reach court, reducing volumes and costs within HMCTS.

## **Option 1c: Piloting the grant funding of publicly funded solicitor training contracts for HLPAS providers.**

### *Methodology*

65. The costs and benefits of this option are based on paying a portion of the costs of employing a solicitor on a training contract for a subset of offices with an HLPAS contract. Our modelling assumption is that the grant will cover most, or all, of the wages and qualifying examination costs of the training solicitors. Providers would cover other costs of employment (such as pension contributions, overheads etc.).

### *Volumes*

66. As the proposal is to pilot this approach, the volumes are uncertain. We have considered a central scenario where 20 training solicitors will start each year and be grant funded for two years each. However, if the pilot only funds 10 training solicitors then the total costs of option 1c below will be halved, but if 40 training solicitors are funded then the costs will be doubled.

### *Costs*

67. We are assuming a grant of £50,000 over two years per training solicitor will cover most, or all, of their wages and their qualifying examinations.

## **Costs of Option 1c**

### Monetised Costs

#### *Legal Aid Agency*

68. This option will cost the Legal Aid Agency £1m per year when fully operational. The first year of this option will see only a single cohort of training solicitors, meaning a first-year cost of £0.5m.

#### *Housing Possession Court Duty Scheme / Housing Loss Prevention Advice Service providers*

69. Participating HLPAS providers will incur some costs of employing additional staff, which will depend on their own terms and conditions and overheads.

## **Benefits of Option 1c**

### Monetised Benefits

#### *Housing Possession Court Duty Scheme / Housing Loss Prevention Advice Service providers*

70. Participating HLPAS providers will receive a benefit of around £800,000 worth of labour (this is the £1m to the Legal Aid Agency less the cost of examinations), and an additional £200,000 in examination costs, as well as additional fee income from their employees who are able to provide legal aid services.

### Non-monetised Benefits

#### *Housing Possession Court Duty Scheme / Housing Loss Prevention Advice Service providers*

71. The newly trained solicitors are initially expected to contribute to the work created by Option 1, or alleviate the pressure created by that option on other practitioners by assisting with other areas. However, in the long run, we expect many of these solicitors to remain within the Legal Aid profession and contribute to work beyond the initial estimates of Option 1, providing a benefit to Legal Aid providers through the additional fees earned.

## *Individuals facing possession proceedings in the courts in England and Wales*

72. Funding trainee solicitors for HLPAS providers will reduce the start-up costs for providers to deliver these services. This will benefit individuals facing possession proceedings by making the delivery of said services more sustainable and by improving accessibility and quality of advice.

### *HM Courts and Tribunals Service*

73. Funding trainee solicitors for HLPAS providers will improve their ability to provide the services and resultant benefits outlined in Option 1. Its implementation will work towards ensuring Option 1 improves the chances of resolution before cases reach court, reducing volumes and costs within HMCTS.

## **Option 2: Allow providers to claim an in-court duty scheme fee in addition to a Legal Help fee for follow on work.**

### *Methodology*

74. LAA data has been used to estimate the costs and benefits of Option 2.

### *Volumes*

75. In 2019 approximately 270 HPCDS clients went on to receive Legal Help. This figure has been used as the expected volumes of future cases that will go on to Legal Help. This assumes that the total volume of HLPAS clients and the proportion of cases going on to Legal Help will both remain unchanged. It is also assumed that the distribution of London vs Non-London sessions remains the same.

### *Costs*

76. The non-London fee for each HPCDS act of assistance is £71.55 excluding VAT. The London fee is £75.60 excluding VAT. This consultation proposes that these fees will remain the fee paid for the in-court duty scheme element of the HLPAS. The provider will be paid the location appropriate fee for any HLPAS in-court matter that goes on to Legal Help, on top of their existing fee for the Legal Help.

## **Costs of Option 2**

### Monetised Costs

#### *Legal Aid Agency*

77. There will be an increased cost to the Legal Aid Fund as a result of this option, as work that was previously not remunerated by the HPCDS will now be paid under the HLPAS. Using the assumptions above gives an approximate option cost of £30,000 per annum.

78. It is possible that the ability to claim the Legal Help and the in-court fee may lead to a provider behavioural change increasing the proportion of cases that go on to Legal Help. This has not been quantified as the cost of this option is small and it will scale directly with the volume of clients.

79. No implementation or administrative costs would be expected to arise with this option.

## **Benefits of Option 2**

### Monetised Costs

#### *Housing Possession Court Duty Scheme / Housing Loss Prevention Advice Service providers*

80. Providers of these services will receive an expected increase in fee income of approximately £30,000.

## Non-monetised

### *Housing Possession Court Duty Scheme / Housing Loss Prevention Advice Service providers*

81. Allowing providers to claim both the in-court fee and the Legal Help fee will make delivering these services more financially viable for legal service providers. Although the amounts available are small, the ability to claim both fees will reflect more fairly payment for work done and, according to providers, make this work more attractive.

### *Individuals facing possession proceedings in the courts in England and Wales*

82. If allowing providers to claim both the in-court fee and the Legal Help fee increases the availability of follow up advice and results in a more sustainable service, then this could lead to better outcomes for individuals facing possession proceedings in the courts in England and Wales.

83. This option should ensure access to justice for individuals facing possession proceedings in the courts in England and Wales.

## **Option 3: Pay providers an attendance fee equivalent to having seen two clients during a session.**

### *Methodology*

84. LAA data has been used to estimate the costs and benefits of Option 3.

### *Volumes*

85. In 2019-20, approximately 3700 sessions involved fewer than two clients. It is assumed that future years have a similar number of sessions with fewer than two clients, and that the London vs non-London distribution of these sessions remain similar.

### *Costs*

86. The non-London fee for a HPCDS act of assistance is £71.55 excluding VAT. The London fee is £75.60 excluding VAT. These fees are used as the unit cost for this estimate.

87. The attendance fee will be two times the location specific act of assistance fee. Providers will only earn more than the attendance fee if they provide an act of assistance to three clients or more.

## **Costs of Option 3**

### Monetised Costs

#### *Legal Aid Agency*

88. There will be an increased cost to the Legal Aid Fund as a result of this option, as the amount paid to providers for low client volume sessions will increase.

89. In 2019-20, approximately 3700 sessions had either zero or one client, and providers received a fee equal to seeing a single. Under this option provider will receive a fee equal to seeing two clients. They will also be paid the location specific attendance fee to give an approximate expected additional option cost of £0.3m.

90. There are no implementation or administrative costs associated with this option.

## **Benefits of Option 3**

### Monetised Costs

### *Housing Possession Court Duty Scheme / Housing Loss Prevention Advice Service providers*

91. Providers of these services will receive an expected increase in fee income of £0.3m.

## Non-monetised Costs

### *Housing Possession Court Duty Scheme / Housing Loss Prevention Advice Service providers*

92. Introducing an attendance fee in place of the existing nil session fee will make it more financially viable for legal service providers to deliver these services, particularly at courts with low volumes.

### *Individuals facing possession proceedings in the courts in England and Wales*

93. This option will ensure this service is more financially viable for providers to deliver at courts with low volumes, so individuals facing proceedings in those courts, likely in rural areas, will receive a better service than they do currently. This will also help ensure access to justice for individuals facing possession proceedings in the courts in England and Wales.

## **Option 4: Contracting for individual courts rather than larger geographic areas.**

### **Costs of Option 4**

94. This option is not expected to have a direct financial impact on its own but is intended to provide the non-monetised benefits described below.

### **Benefits of Option 4**

#### Non-monetised

### *Housing Possession Court Duty Scheme / Housing Loss Prevention Advice Service providers*

95. By contracting for individual courts, this will allow for providers with greater proximity to the court to travel with greater ease and at lower cost. We expect that less travel as a result of contracting for individual courts will make delivery of these services more attractive for providers and lead to more providers bidding to deliver these services in the future.

### *Individuals facing possession proceedings in the courts in England and Wales*

96. Contracting for individual courts could also make use of local knowledge and allow providers to focus on delivering services at courts where they are more attuned to the day-to-day running, routine and procedures of the court. This could lead to a better service for clients as they could benefit from this expertise, whilst they could also benefit from continuity of service in terms of follow up advice – for example, follow up meetings to resolve the issues which led to possession proceedings. This should help ensure access to justice for individuals facing possession proceedings in the courts in England and Wales.

## **Option 5: All of the options 1 to 4 above (preferred option)**

97. Option 5 is the result of doing options 1 to 4 together, and so the costs and benefits are the same as those set out above when combined. The overall expected cost to the Legal Aid Fund is expected to be £10.3m per year, with an equivalent benefit to providers.

## **F. Risks and assumptions**

98. The key assumption is that we return quickly to a steady state, from the current level of demand due to Covid-19, and that this is at the same level of HLPAS uptake and proportions who go on to receive other legal aid services as in the calendar year 2019.

99. To test this assumption and demonstrate the potential financial risks we have considered a higher cost scenario where uptake of the HLPAS increases beyond the level of the current in-court service. This scenario has been generated by looking at the relationship between the number of HPCDS claims at each court and the volume of possession claims in the court, to understand the potential scope for increased take up. We have used a fuzzymatching technique because the HPCDS data identifying the court is recorded using a free text box and so the matching is not 100% accurate.

100. This exercise showed that there was wide variability in the ratio of HPCDS claims to court claims. The courts with the highest sustained ratio of HPCDS claims to court claims saw 0.5 HPCDS claims for every mortgage court claim, and 0.75 HPCDS claims for every tenant court claim. These courts are taken as an example of the maximum possible HPCDS volume. If the options considered brought all courts up to the volumes of these exemplary courts, we estimate that the additional cost of the early advice under HLPAS could rise to £17.8m. This cost is unlikely to arise immediately but illustrates the longer-term costs which could arise if this policy generates additional uptake for this new service.

## **G. Wider impacts**

### **Equalities**

101. The Equalities Impact Assessment can be found on page 26 of the government's response to the consultation "Housing Legal Aid: the way forward".

### **Families**

102. We have no evidence to suggest that families would be disproportionately affected by the proposal. Families may derive particular benefit from the services described here where they are able to stay in their existing accommodation.

### **Impact on small and micro businesses**

103. Housing legal aid is provided by businesses of various sizes, and these changes should have a positive impact for all size of business. Contracting for individual courts (option 4, and included in option 5) should benefit small businesses particularly as they will be able to choose how many courts they are able to ensure provision, which could be more challenging for a small business covering multiple courts.

### **Foreign trade impacts**

104. We do not envisage any foreign trade impacts.

### **Better Regulation**

105. This measure is out of scope of the Small Business Enterprise and Employment Act 2015 and the Ministry of Justice's Business Impact Target.

### **Welsh language**

106. We have considered the implications for Welsh language in the development of these proposals and a Welsh language version of the government's response to the consultation is available upon request.

## **H. Monitoring and Evaluation**

107. Following implementation, we will continue to monitor the impact of these changes. One of the policy options is to pilot the funding of solicitor training contracts for legal aid providers and the pilot will be fully evaluated. We will publish more details on the evaluation metrics in due course.