

**Legal Team**

8<sup>th</sup> Floor, Zone C (8.37)  
102 Petty France  
London, SW1H 9AJ  
DX: 328 London  
Tel: (020) 7718 8000

www.legalservices.gov.uk

Lucy Reed

**Our ref:** RW/IR/FOI Log no 5757

By email only:

[Request-101249-0dd07728@whatdotheyknow.com](#)

**Date:** 19 March 2012

Dear Ms Reed,

**Internal Review: Freedom of Information Act 2000**

Thank you for your email dated 20 February 2012.

You have asked me to review the LSC's response to your request for information originally submitted by email on 21 January 2012. In your original request you asked for the following information under the Freedom of Information Act 2000 ("FOIA"):

- 1. Please provide a copy of all written policies, written instructions and operational procedures (including those sent by email) circulated to LSC staff or in operation between 1 January 2011 to date concerning the circumstances in which counsel's claims for payment of fees for legal services pursuant to the Family Graduated Fee Scheme may or should be rejected by staff at the LSC processing such claims. In particular please provide any policies, written instructions or operational procedures concerning the rejection of claims for payment based upon apparent deficiencies in the Special Issue Payment form, for example relating to court seals or judicial initials / signatures.**
- 2. Please provide a copy of all written policies and all written instructions or operational procedures (including email instructions) circulated to LSC staff or in operation between 1 January 2011 to date concerning the circumstances in which counsel's claims for payment of fees for legal services pursuant to the Family Advocacy Scheme may or should be rejected by staff at the LSC processing such claims. In the event that it is not possible under this scheme to distinguish between different categories of advocate please provide the policies in respect of all claims for advocacy. In particular please provide any policies, written instructions or operational procedures concerning the rejection of claims for payment based upon apparent deficiencies in the FAS Advocates Attendance form, for example relating to court seals or judicial initials / signatures.**
- 3. Please state the number of claims for payment made by counsel under a) the Family Graduated Fee Scheme b) the Family Advocacy Scheme which were received and rejected between 1 January 2011 and 31 December 2012.**

- 4. In respect of each group of claims identified at 3 a) and b) above, please state the number of such claims that were rejected because of apparent deficiencies relating to the Special Issue Payment Form or Advocates Attendance Form. In the event that the LSC does not record the numbers rejected for this reason, please provide a breakdown by reason for rejection using such categories as the LSC does maintains records for.**

In the LSC's response to your original request, dated 17 February 2012, the LSC confirmed that it held the information you requested. However, the LSC confirmed it had aggregated all of your requests (pursuant to the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004) as they formed part of the same request, and on this basis the LSC refused your request under section 12(1) of the FOIA, as it exceeded the appropriate limit. For the LSC the "appropriate limit" is currently £450, equating to 2.5 working days or 18 hours to determine whether the Legal Services Commission (LSC) holds the information and locating, retrieving and extracting the information.

The LSC confirmed that it held information in relation to question numbers 1, 2, 3(a) and 4(a) and could provide you with this within the appropriate limit, however the LSC could not provide the information requested in questions 3(b) and 4(b) within the appropriate time limit, and this meant that the entire request was refused under section 12(1) of the FOIA.

In your email requesting an internal review, dated 20 February 2012, you state:

**"I am writing to request an internal review of Legal Services Commission's handling of my FOI request 'Policy on Payment of Fees'.**

**You have confirmed that you hold all the information I have requested.**

**You have confirmed that you would be able to provide all of the information within the time limit save in respect of q3b and 4b.**

**You say that the aggregated costs to respond to all the requests would be disproportionate.**

**Regulation 5(2)(a) of The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 provides that the costs of a number of requests may only be aggregated where the requests "relate, to any extent, to the same or similar information". I do not agree that the requests you have aggregated relate to the same or similar information.**

**Questions 1 and 2 are requests for information on LSC policy and instructions to staff.**

**The information requested in questions 3 and 4 is of a wholly different nature - those requests are requests for statistics.**

**The same point applies in respect of questions 3a / 4a as compared to questions 3b / 4b, where the same question is asked but of entirely different and separate schemes, and in circumstances where your response makes clear the data is held separately (you say that the FAS statistics in particular would be time consuming to provide).**

**Further, the information requested under Question 1 relates to policy in respect of one scheme (FGFS) whilst that sought under Question 2 relates to an entirely different scheme (FAS).**

**There is no overlap between questions 1 and 2, nor between questions 1 / 2 and 3 / 4. There is no overlap between questions 3a and 3b, nor between 4a and 4b. The information sought in each request is wholly different.**

**Please would you now reconsider the costs of my requests separately. I note that requests 1 and 2 are requests that will require the LSC simply to collate information, rather than extracting information by way of running reports or computing statistics and I do not therefore expect them to run into difficulty on the grounds of disproportionate amount of time if considered separately.**

**I note that in respect of questions 3b and 4b (FAS statistics) there is an argument made as to disproportionate time to extract the requested information. For the avoidance of doubt, I would welcome the LSC responding to questions 1 and 2 even if refuses to respond to questions 3 and 4. It would of course be far more cost effective for the LSC to respond in this way than to await and process a subsequent request, for comprising only of questions 1 and 2.”**

My role in conducting this review is to determine whether the LSC has complied with the requirements of the Act. In doing this I can confirm that your correspondence, the response from the LSC and the contents of the FOIA have been fully considered in reaching my decision. The Act provides a right of access to information held by public bodies, such as the LSC, unless the Act itself states that the information should not be provided.

Having had the opportunity to consider your email requesting an internal review, I am satisfied that your requests should not have been aggregated, and that the information should be disclosed to you.

Please find attached Annex A, which details all FGF/FAS claims that were rejected between 1 January 2011 and 31 December 2011, with the reasons for rejection.

Also attached is Annex B, which encloses copies of all internal LSC guidance in relation to FGF claims, and Annex C, which contains the same information in respect of FAS claims. Names of individuals contained in emails have been redacted, as we believe these names and contact details to be the individual's own personal data. Any guidance would ultimately originate from the relevant Funding Orders, the FAS Annex of the Costs Assessment Guidance and the FGF guidance in Volume 1 of the LSC Manual, all of which are available online.

As the LSC had now provided the information requested, I am satisfied that the LSC has complied with the obligations under the FOIA.

If you remain concerned that your request was not dealt with in accordance with the Act, you may write to:

Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire

SK9 5AF

Yours sincerely

A handwritten signature in purple ink, reading "Ruth Wayte". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Ruth Wayte  
**Legal Director**