

Analysis of the Information received from the October 2011

Questionnaire to members who undertake ISW Assessments for the Courts

Introduction

Nagalro has been very active in the issue of capped fees for Court Assessments by Independent Social Workers, both prior to and since the introduction of capping by the LSC for work linked to legal aid certificates issued after 9th May 2011.

NB. Many members are still being paid their normal rate because their work will be covered by a pre-May 9th legal aid certificate.

Those Nagalro members who were still involved in providing ISW Assessments for the Courts during 2011 were asked to complete the most recent questionnaire,

- (i) at the Nagalro AGM this October when **39** members completed the questionnaire and
- (ii) by sending it out to the membership via email. This brought in a very prompt response from a further **69** members.

Hence the full response was from **108 members**, who have all provided ISW Reports to the Courts in 2011.

Regarding Question 1:

In which year did you first provide ISW Reports for the Courts?

Length of experience in this work – for the 108 members who responded

13 (12%) 1-3 years

40 (37%) 4-8 years

42 (39%) 9-16 years

13 (12%) 17 years plus

NB. For other readers of this report, please note that such work is only undertaken following extensive social work experience elsewhere.

Regarding Question 2:

Have you provided reports in Public and/or Private Law?

107 of the 108 ISWs have undertaken assessments for public law proceedings

95 of the 108 ISWs have undertaken assessments in private law matters

Regarding Question 3:

Have you continued to receive instructions since the AGM in March 2011?

92 of the 108 have taken on new court work since the AGM in March 2011.

Of the **16 (14.8%)** who have not undertaken any new instructions since March, it appears that this is as a result of:

6 (5.5%) would only re-consider such work if the capped fee is scrapped

2 (1.8%) chose to walk away immediately from further court work

7 (6.5%) have tried to obtain new instructions, but have been unsuccessful since March, due to the dramatic reduction of instructions being ordered from the Courts

1 person has been too busy doing other non-related work at this time

Regarding Questions 4 and 5:

Have you continued to seek / receive your normal rate?

Of the remaining **92** of the original **108** members:

74 of the **92 (80.5%)** have continued to receive work at their normal rate. However, this is because the legal aid certificates for their work will pre-date 9th May 2011.

A further **3** members have continued to receive work without any reduction, but their rates were already at £30 per hour, before the fee cap was introduced by the LSC.

These **3** members, together with the remaining **15** of the **92** members, means that **18** of **92** members (**19.5%**) were already accepting new work, at the capped rate, from this summertime, albeit with much reluctance in most cases.

The analysis of the answer to Question 7 later will show that whilst the above % has continued to increase slowly through to this autumn, as new work is increasingly linked to post-May 9th legal aid certificates, many of these workers are not necessarily planning to remain doing ISW work within the Courts.

Regarding Question 6:

Have you had your hourly rate reduced by the LSC for recent instructions?

It appears from the answer to this question that **12** of the 92 members (**13%**) have had their costs reduced in some way by the LSC either at the time of being commissioned or sometime following their involvement in respect of more recent instructions. Some of these matters are being appealed presently.

3 of these 12 members have found that the LA was prepared to meet the shortfall in payment from the LSC. However, whilst this will have been very decent of the LAs concerned, particularly at this time of cutbacks, LAs are not being encouraged by the Courts to continue with this practice (see HHJ Altman's October 2011 Guidance). Therefore members should not have any expectation of LAs attempting to meet any shortfall between their normal rate and the LSC capped rate in the future.

Regarding Questions 7 and 8:

Have you already accepted instructions at the LSC capped rate/received any payments at the capped rate?

It appears that **26** of the 92 (**28%**) have now accepted some work at the LSC capped rate. These workers have the following range of ISW Court experience.

4 (15.4%) 1-3 years

9 (34.6%) 4-8 years

10 (38.5%) 9-16 years

3 (11.5%) 17years plus

The figures above show that there is the same number of workers with 9 years or more experience of ISW Assessments for the Courts (**50%**) as there are workers with up to 9 years experience (**50%**), who have accepted work at the capped rate. Whilst it is evident that there has not been a disproportionate loss of the most experienced workers in this field at the present time (i.e. very similar figures in the answer to question 1), the level of anger, frustration, and feelings about the profession being devalued by government is found, unsurprisingly, to be the strongest amongst those who have been providing their services to the Courts for the greater length of time.

However, the vast majority of these 26 members, who have already taken work on at the capped rate, are very annoyed and discontented. They appear to be continuing for the time being in this work as it is either their sole or main source of income at this point in time. Some are considering either, (i) reducing their Court work commitments considerably, (ii) looking for alternative work away from the Court arena as soon as possible, or (iii) deciding to do no further Court work at the capped rate.

Regarding Questions 9 and 10:

Do you intend to continue to take court work?

PLUS: The range of comments that members provided to Question 10

This considers all **108** members' responses.

The following picture emerges from members' comments in the questionnaire:

56 of the 108 members (**52%**) are intending to continue to provide their services to the Courts, either indefinitely or until "alternative" / or "less demanding" work can be found. Many of these members have been providing this service for many years and whilst being very annoyed and frustrated with the present state of affairs, some rely upon this work as either their sole or main income, and some have also expressed concern that if they walk away now then the services for children will deteriorate even more rapidly. Some of this group mentioned that their particular specialist skills needed to be promoted more strongly, in order to either obtain proper remuneration for their Court work, or use their specialist skills in other work, away from the court arena.

43 of the 108 members (**40%**) have stated that they will not undertake new work at the capped rate, and are now looking for alternative work. **3** of these members have already ceased doing this work during 2011, and **3** other members have decided to retire from social work, probably somewhat sooner than they had intended.

The remaining **9** of the 108 members (**8%**) have indicated that they are unsure at this time as to what they will do. The majority of this group are again looking for alternative work, but will consider further legally aided ISW Court work at the capped rate if their own financial circumstances became more difficult.

I have listed below a range of written comments that have been provided by members who completed this questionnaire, and have tried to keep any repetition of familiar themes to a minimum.

- I would love to continue with ISW Court work but I am now looking for alternative work. (this is a common view expressed)
- I have continued to receive numerous enquiries, but none of them have led to any formal instructions, due to the drastic cut of instructions being ordered by the Courts.
- The common phrase used in financial circles "*you cannot buck the market*" does not appear to apply to our own freelance operations.
- The MOJ has chosen to marginalise our expertise, at the same time as Children's Guardians are being asked to restrict their level of their involvement with children, and LAs are making major cuts to their children's services. Sadly, this combination significantly increases the risks for vulnerable children.
- I will not budge on fees. I will not accept anything but a proportionate reduction for all experts eg. 5-10% for all.
- Experts are often asked overlapping questions, leading to waste, but that does not mean that expertise is not required.
- We should not be blamed for the "duplication" of assessments that is being referred to at this time. This is a matter for the lawyers and the Courts to get right, as we, like any other experts, simply respond to the Courts' requests for assessments, and the wording of the formal instructions.
- I am not prepared to continue to carry all the responsibilities of ISW Court work at the drastically reduced rates.
- A fixed fee with parameters seems to be the way to go, rather than a focus upon an hourly rate.
- I definitely do not wish to return to an employed position, so working at the capped rate may be my only alternative.
- I will retire in June 2012 - very disillusioned with the capped fee.
- I have only been taking work directly from LAs since LSC capping was introduced.

- The work is inconsistent, lonely, and difficult. Reports are often more time consuming than I have estimated for, so I often end up losing money by working unpaid hours.
- I incur significant costs related to practicing in this specialist field:
 - (i) registration fees, professional indemnity insurance, membership subscriptions, CRB checks, and rising training costs
 - (ii) private study time (unpaid) to ensure that I keep up to date, through reading books, new research, policy and practice changes, new legislation, practice directions and case law etc, and
 - (iii) the normal costs associated with self-employment - telephone, broadband, computer, internet security, mobile phone, stationery, accountancy fees, not to mention the usual time involved in running an office and bookkeeping.
- Each person must make choices that are necessary. However, if I were at an earlier stage in my career, I would probably branch out into some other form of work which used my particular skills, and was not so tied to the vagaries of public policy. I would not stick around to watch my skills devalued. It is a difficult choice for colleagues I know.
- We can no longer be simply “INDEPENDENT SOCIAL WORKERS”. We have to become “SPECIALIST” and be recognised as experts in our own field.
- Mediation is growing and there is also immigration work.
- I have started doing far more consultancy and direct work for LAs, not within Court proceedings, as I don't want to do 'high end work' at lower rates.

Final remarks

Thank you to everyone who has contributed to this latest survey. I can assure you that Nagalro Council will continue to try to show to parliament that we provide “added value” when our involvement has been identified as being required by the Courts, and we will continue to argue for formal recognition as Experts in Family Proceedings.