

A Fistful of Matter Starts – anticipating NMS targets for staff

CLS Support Contracting email bulletin no. 113

Introduction

- 1.1 This bulletin is aimed at Not-for-Profit (NfP) organisations that work under the Unified Contract. It provides guidance on setting matter start targets for staff who from October 2007 will be working under the fixed fee regime.
- 1.2 This bulletin gives a worked example of how one fictitious organisation calculated such a target for its casework staff.
- 1.3 **Please note:** your actual New Matter Start (NMS) allocation, which will be contained within a future Schedule document, will be determined by a range of factors, including your performance under any previous Schedule and the period the future Schedule covers. As such, the figures given in the example here are for illustrative purposes only.

Welcome Welfare Rights

- 2.1 *Welcome Welfare Rights (WWR)* previously worked under a NfP contract and in April 2007 signed the Unified Contract. *WWR* provides specialist advice and assistance in the Debt and Welfare Benefits (WB) categories of law.
- 2.2 *WWR* wants to get it right. The organisation knows that it will be allocated a number of NMS that may be commenced in each category of law from October onwards. Whilst it has not yet been told firmly by the Legal Services Commission (LSC) what this allocation will be, it does know that it will be set at a level which ensures it receives the same funding as now (subject for example to any underperformance under the current Schedule).

Performing the calculation

- 3.1 *WWR* pulls the figures together. It looks at its current Schedule which is for six-months (April to September inclusive) and doubles the figures so that it can approximate what they would be on a yearly basis. This is what *WWR* comes up with:
 - Total income from the LSC per annum: £242,268.30 (inc VAT)
 - Deduct the amount the LSC pay in lieu of disbursements (£2000)
 - Equals payment for hours anticipated: £240,268.30

- Target hours to achieve this income: 4950 hours
- Of which part is Debt hours: 2200 hours
- And of which part is WB hours: 2750 hours
- Debt fixed fee: £196 (excl VAT)
- Welfare Benefits fixed fee: £164 (excl VAT)

3.2 *WWR* realises it needs to find out how the total income it receives from the LSC is currently split between the two subject categories; this is so that it can work out how the matter starts are likely to be split between the two subject categories come October.

3.3 *WWR* looks at the most recent Schedule document it has (April 2007 – September 2007) which details how the hours are allocated between subjects. They establish, on a yearly basis, that the percentage of the total hours according to subject category is as follows:

Debt: 2200 hours/year	[equivalent to 44.5% of the total hours]
<u>WB: 2750 hours/year</u>	[equivalent to 55.5% of the total hours]
Total: 4950 hours/year	

3.4 This then allows *WWR* to calculate what proportion of its income it receives in respect of each subject category on a yearly basis.

3.5 **Please note:** if you are unsure how the total monies you have received under any existing (or previous) Schedule may be apportioned between subject categories, then please contact your Account Manager at your Legal Services Commission (LSC) Regional Office for clarification.

3.6 The total yearly income it is paid for claimable work, including VAT = £240,268.30 (remember that any money paid in lieu of disbursements has been deducted).

3.7 The proportion of this income in respect of **Debt** is approximately:
44.5% of £240,268.30 = £106,919.34 (inc VAT)

3.8 The proportion of this income in respect of **WB** is approximately:
55.5% of £240,268.30 = £133,348.90 (inc VAT)

3.9 *WWR* then proceeds to calculate how many NMS it would need to complete, over the two subject categories, in order to continue to receive this same level of income. *WWR* calculates this by dividing the amount of income it currently receives in respect of each subject category by the fixed fee for that category; the simple formula for this is:

$$\frac{\text{Amount received/year in respect of category}}{\text{category Fixed Fee for that category}} = \text{No. NMS for category}$$

- 3.10 Bearing in mind that *WWR* receives VAT in respect of payments from the LSC it decides to include this in the calculation also; however, as it includes VAT in the income part of the calculation then it must also add VAT to the each respective fixed fee to ensure that the calculation is balanced. *WWR* calculates the fixed fee plus VAT for each subject:

Debt fixed fee + VAT (at 17.5%) is £196 + £34.30 = **£230.30**

WB fixed fee + VAT (at 17.5%) is: £164 + £28.70 = **£192.70**

- 3.11 **Please note:** if you prefer, you can choose to leave VAT out of the calculation entirely, in respect of both the income you receive and the fixed fee. This is perfectly acceptable, as you will still arrive at the same result in terms of NMS targets.

- 3.12 *WWR* then calculates the target of Debt NMS according to the formula at paragraph 3.9 above, including VAT in the calculation:

$$\frac{\pounds 106,919.34}{\pounds 230.30} = \mathbf{464 \text{ Debt NMS/annum}}$$

- 3.11 And then does the same for WB:

$$\frac{\pounds 133,348.90}{\pounds 192.70} = \mathbf{692 \text{ WB NMS/annum}}$$

Establishing a target for staff

- 4.1 *WWR* looks at the position with the Debt category first. Currently, *WWR* has two Debt caseworkers, one of which is the named category supervisor. Both of the caseworkers currently work to the same target of 1100 hours direct (claimable) casework per year.
- 4.2 On this basis, dividing the 464 Debt NMS between the two caseworkers means that each of them would need to aim to achieve 232 NMS per year. *WWR* then decides to work out what this would mean on a weekly basis.
- 4.3 From its experience of working under an hours target, *WWR* knows that working out a weekly target isn't as simple as dividing the yearly target by 52 (weeks); this would not take account of holidays nor anticipate other potential reasons for staff absence which may impact on meeting targets.

- 4.4 In order to try and calculate a more realistic weekly target *WWR* tries to work out the potential number of days staff are likely take off work each year. *WWR* comes up with the following:

Total weekdays in a year: $52 \times 5 = 260$

Less:

Bank holidays:	7
Annual leave:	30
Training:	5
Sick:	10
<u>Miscellaneous leave:</u>	<u>2 (eg bereavement, sick children etc)</u>
Total:	54 days

- 4.5 This allows *WWR* to approximate that on average, each full-time member of staff would attend work 206 days each year, which is equivalent to 41.2 weeks.
- 4.6 Looking back at the yearly NMS target for each full-time member of staff in the Debt category (paragraph 4.2) and taking into account the likely 41 week attendance, *WWR* decides that an appropriate target for each Debt caseworker would be: $206/41$ or, 5 NMS per week.

Notes:

- 5.1 The example assumes any monies apportioned in the original pre-October Schedule in respect of Level I and/or tolerance work being added proportionally into the total amounts payable in respect of each subject category.
- 5.2 The principles of this calculation may be applied to the WB category on the same basis but would need adjusting to take into account the fixed fee payable for WB, the amounts of monies received in respect of that category and, the individual circumstances of the caseworkers e.g. whether full-time or part-time.
- 5.3 The calculation of likely attendance at work during a year (paragraphs 4.4 and 4.5) does not take into account maternity or paternity leave or other forms of extended absence that may occur. Organisations may want to either include an additional estimate into the NMS target calculation in lieu of this and/or, may want to consider specific contingency planning to address potential long-term absence of casework staff.
- 5.4 The calculation looks at target setting on the basis of fixed fee NMS only; it does not factor in any income that may be received for any exceptional cases over time, which may cause organisations to amend NMS targets.

- 5.5 Whilst organisations may want to include an estimate of income that may be received in respect of exceptional cases in the calculation, we would caution against financial planning on this basis, particularly as exceptional cases are subject to cost assessment and any claims for payment you make risk being reduced on assessment.
- 5.6 Do not forget that from October it will be the submission of closed matters that credit your account with the LSC, not the opening of new ones. Therefore, whilst it is important to open an adequate number of NMS, it is just as important to ensure that you are closing a comparable number in order to balance your account from month to month and over time. We will be looking at this issue within a further email bulletin as soon as the transitional arrangements have been finalised.

Further information and guidance

- 6.1 If you need any further information or guidance on any of the issues considered in this email bulletin, please contact the CLS Support consultancy service on 0870 7700 447 Monday to Friday 1pm to 4pm or email cls.support@asauk.org.uk at any time.
- 6.2 CLS Support email bulletins and briefings can be downloaded from the CLS Support User's Area on the Advice Services Alliance website at www.asauk.org.uk/clssusers. Please contact us if you do not know your username or password.