

The SOOPER scores and their relevance to NfP agencies

1 Introduction

- 1.1 This policy briefing explains how the Legal Services Commission [LSC] has decided which agencies to audit this year, and the significance of the scoring system, known as SOOPER, that the LSC has devised for this purpose.
- 1.2 The LSC has introduced a new audit system for NfP agencies for a number of reasons. Many NfP agencies have not been audited by the LSC for a long time. The Department for Constitutional Affairs has asked the LSC to prioritise auditing NfPs. The LSC also wishes to understand the range of services provided by the NfP sector in order to help decide the shape of future contracting with the sector from April 2007.
- 1.3 The LSC does not have the resources to audit all NfP agencies on a regular basis. It therefore decided to prioritise those agencies that seemed to be the biggest “risk” to them, insofar as they could measure this. They therefore identified a number of “risk factors” which they could assess based on the information that they already have on agencies and their performance.
- 1.4 **Being “high risk” however does not indicate that an agency is doing poor quality work.**

2 What SOOPER measures

- 2.1 SOOPER stands for “Supplier Out-Of-Profile Exception Report”. It attempts to identify “risk” by considering factors that suggest that agencies are unusual (“out of profile”) as compared to the NfP sector generally. The key factors are:
 - Fund take – if the contract is worth more than £150,000 p.a. (which attracts 5 points)
 - Performance against contract – if agencies are doing less than 85% or more than 115% of their contracted hours (5 points)
 - Average case time (in welfare benefits and debt only) – if agencies’ average case time in these categories is less than 2 hours or more than 6.5 hours (4 points)
 - Multiple clients – if the percentage of clients with more than one case reported within the same category of law in the last 12 months is more than 5% (3 points)
 - Level 1 work – if the agency is claiming more than 10% of its contracted hours as level 1 work (2 points)
 - Disbursements expenditure per case – if the agency’s expenditure on disbursements is within the highest 10% in welfare benefits, debt, housing or immigration (1 point)
- 2.2 On this basis, all agencies can be given a score of 0-20 points. The higher the score, the more likely the agency is to be audited. Current indications are that **the LSC is aiming to audit all agencies with a score of 9 points or more during the current year**, although we have doubts as to whether they will manage to achieve this.
- 2.3 Although a high score increases an agency’s likelihood of being audited sooner, rather than later, we consider that it is ultimately in agencies’ interests to be audited. Agencies may have got into bad habits and be working in ways that do not comply with the NfP contract or the SQM. Feedback received from the LSC suggests that they are identifying a number of matters on which agencies need to improve their

performance and procedures. File review and supervision are two matters that have been highlighted.

3 Do the scores matter?

- 3.1 Having a high score itself is not necessarily a problem. An agency can accumulate 9 points merely because it has a large contract and high average case times in welfare benefits and debt. Agencies may however wish to consider the following:

Performance against contract

- 3.2 If agencies are achieving less than 85% of their contracted hours, this will clearly be a matter of concern and something which they should consider discussing with their LSC regional office. Although SOOPER highlights agencies performing at less than 85% it is important to remember that, for the regional offices, performance of 85-94% is only acceptable if there is a good reason. Agencies should investigate the causes of performance under 95% and having identified them, take steps to deal with them where possible.

Level 1 work

- 3.3 Agencies are not supposed to be claiming more than 10% of their contracted hours as “level 1” work without the agreement of their LSC regional office.

Disbursement expenditure

- 3.4 We are not convinced that “high” disbursement expenditure is in itself an indicator of anything. Being in the top decile (or 10%) should certainly not be regarded as a problem in itself. By definition, 10% of agencies will have to be in the top decile. The actual cut-off figures are also quite low, especially in relation to debt. Where agencies do have average disbursements significantly above these levels they should however satisfy themselves that their expenditure is reasonable. High expenditure on disbursements can be easily explained by factors relating to the type of work done (e.g. the need for medical reports in certain types of cases) or the types of clients helped (e.g. interpreter fees).

Multiple clients

- 3.5 The LSC included this factor out of concern that a high proportion of repeat clients in the same category of law might indicate that matters are not being properly resolved when the client first consults the agency, and might indicate an access issue if the agency deals repeatedly with some clients to the possible exclusion of other potential clients. This does not appear to be a major problem. It seems that approximately 15% of Nfp agencies have more than 5% repeat clients in any category, 6% have more than 10% and 3% have more than 20%. Those with the highest percentages appear to be immigration suppliers, for reasons that are not yet clear. Agencies which do have a significant proportion of repeat clients may want to consider why this is so. It may be due to characteristics of the clients helped, or the problems presented. It may reflect how quickly agencies close cases, either generally, or when they stop hearing from the client. It may be a combination of these and other factors.

Average case times

- 3.6 The SOOPER risk factor highlights agencies which have average case times in debt and/or benefits of less than 2 hours or more than 6.5 hours.

- 3.7 The LSC appears to be concerned that agencies with average times of less than 2 hours are providing less than a full service to their clients and/or are doing a high proportion of what might be seen as “low level” work. It appears that approximately 5% of agencies with contracts in debt and/or benefits fall into this category. Agencies with such low average times may wish to consider the nature of the service they are providing. It should be noted however that the LSC are also concerned to maximise the number of clients helped by the Legal Help scheme, and it is likely that agencies with low average times are seeing higher than average numbers of clients.
- 3.8 The “high” average times are a more complicated issue. The LSC appears to be concerned that some agencies are taking longer on cases than they would like to see, either because they have doubts as to whether agencies are making the most productive use of their time, or because high average times mean that agencies can see fewer clients, at the expense of other potential clients who cannot be helped as a result.
- 3.9 There is of course nothing wrong with high average times in themselves. The cut-off point of 6.5 hours is an arbitrary figure chosen by the LSC, which affects approximately 30% of agencies doing debt and/or benefits work. The LSC previously provided us with average case times for NfPs in different categories of law in 2004-05, which show averages of 5.16 hours in debt and 4.61 hours in benefits, with some quite significant variations between the regions.¹
- 3.10 However, agencies do need to be thinking about their average case times. The LSC is under considerable pressure from government to increase the number of people helped under the Legal Help scheme. It clearly thinks that one way to do this is to control and ultimately reduce the average case times of NfP agencies. The LSC has already introduced matter starts targets for those NfPs that were successful in seeking expansion under the LSC’s “PSA6 Delivery Package”.² The LSC’s draft strategy for the CLS makes it fairly clear that the LSC is intending that the new contract from April 2007 will specify the number of cases that agencies (and solicitors firms) will carry out in each category per year. We have been informed that the LSC would like to introduce matter starts targets into the current NfP contract. Agencies do therefore need to be thinking about their average case times, whether they think they can justify them (e.g. by reference to the types of cases taken or the types of clients helped), and whether they could “improve” them without adversely affecting the quality of the service that they provide.

¹ See “Average case times (CLS Support Contracting email bulletin no.48)”

² See “Bidding for new Matter Starts” (CLS Support Contracting email bulletin no.47)