

**2007 No. 2443**

**LEGAL SERVICES COMMISSION,  
ENGLAND AND WALES**

**The Community Legal Service (Funding) (Counsel in Family  
Proceedings) (Amendment) Order 2007**

<i>Made</i> - - - -	<i>9th August 2007</i>
<i>Laid before Parliament</i>	<i>17th August 2007</i>
<i>Coming into force</i> - -	<i>1st October 2007</i>

The Lord Chancellor makes this Order in exercise of the power conferred (a) by section 6(4) of the Access to Justice Act 1999(b). The Lord Chancellor has consulted the General Council of the Bar and the Law Society in accordance with section 25(2) of that Act and has had regard to the matters specified in section 25(3) of that Act.

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Community Legal Service (Funding) (Counsel in Family Proceedings) (Amendment) Order 2007 and comes into force on 1st October 2007.

(2) In this Order a reference to an article by number alone is a reference to the article so numbered in the Community Legal Service (Funding) (Counsel in Family Proceedings) Order 2001(c).

**Amendments to the Community Legal Service (Funding) (Counsel in Family Proceedings) Order 2001**

2. In article 2—

- (a) before “In this Order” insert “(1)”;
- (b) in the definition of “Cost Appeals Committee”, for “Costs Committee” substitute “Independent Costs Assessor”;
- (c) omit the definition of “Costs Committee”;
- (d) for the definition of “Director” substitute—

““Director” means any Director appointed by the Commission in accordance with the Funding Code and any other person authorised to act on his behalf, except a supplier;”;

- (e) after the definition of “harm” insert—

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(a) The powers were transferred from the Lord Chancellor to the Secretary of State by the Secretary of State for Constitutional Affairs Order 2003 S.I.2003/1887 and were transferred back the Lord Chancellor by the Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 S.I.2005/3429.  
(b) 1999 c.22.  
(c) S.I. 2001/1077; amended by S.I. 2003/2590, 2005/184, 2005/2114, 2005/3504 and 2006/2364.

““Independent Costs Assessor” means an assessor appointed by the Commission for the purpose of considering appeals in relation to costs;”;

(f) after the definition of “the secondary hearing unit” insert—

“(2) References to the levels of service ‘Legal Help’ or ‘Family Help (Lower)’ shall be construed as references to the receipt or provision of those levels of service granted in accordance with the Funding Code.”.

3. In article 4—

(i) in paragraph (2A), delete “in which case all costs and disbursements in respect of such work shall be assessed in accordance with the rates set out in the Legal Aid in Family Proceedings (Remuneration) Regulations 1991.”;

(ii) after paragraph (2A), insert—

“(2B) This Order does not apply where counsel is instructed under Legal Help or Family Help (Lower).”.

4. In article 18—

(a) in each place where it appears, for “Costs Committee” substitute “Independent Costs Assessor”;

(b) in paragraph (3), for “that committee” substitute “the Independent Costs Assessor”.

Signed by authority of the Lord Chancellor

*Bridget Prentice*  
Parliamentary Under-Secretary of State  
Ministry of Justice

9th August 2007

#### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Community Legal Service (Funding) (Counsel in Family Proceedings) Order 2001 (“the 2001 Order”).

The 2001 Order governs the systems for the payment of graduated fees for counsel for work in family proceedings. The 2001 Order also covers how and when claims for payment are to be made, and appeals and review of payments.

This Order changes the references to those within the Legal Services Commission who are responsible for considering certain claims, applications and appeals under the 2001 Order. The change is to reflect amendments to the Legal Services Commission Funding Code.

This Order exempts certain levels of service from the Family Graduated Fee regime.

An impact assessment has been prepared and was included in the full Impact Assessment which accompanied the document ‘Legal Aid Reform: Family and Family Mediation Fee Schemes for October 2007’. A copy is available from Civil Legal Aid Strategy Division, Ministry of Justice, 54 Victoria Street, London, SW1E.6QW.

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