

<p>The Civil Legal Aid (Financial Resources and Payment for Services) (Amendment) (No. 2) Regulations 2014</p> <p>Ref: MoJ031/2014</p> <p>Lead department or agency: Ministry of Justice</p> <p>Other departments or agencies: Legal Aid Agency; HM Courts & Tribunals Service</p>	<p>Date: 07 October 2014</p> <p>Stage: Final</p> <p>Source of intervention: Domestic</p> <p>Type of measure: Secondary legislation</p> <p>Contact for enquiries: Kate.Shiner@justice.gsi.gov.uk</p>
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Summary: Intervention and Options

RPC Opinion: Not Applicable

Cost of Preferred (or more likely) Option				
Total Net Present Value (2013/14 prices)	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out?	Measure qualifies as
N/A	N/A	N/A	No	N/A

What is the problem under consideration? Why is government intervention necessary?

Around 68% of the cases involving children that go to court are seeking to determine where a child lives or who they should see. There is rarely a legal issue for the court to determine. In order to free up judicial resources for the more complicated cases, involving the most vulnerable parties, it has long been a Government priority to encourage the use of non-court based dispute resolution options for separating and divorcing couples.

Currently, where one party already qualifies for legal aid for mediation, the couple are funded to attend a Mediation Information and Assessment meeting (MIAM). However, should the couple then decide to mediate, the unfunded person has to pay for their share of the cost of the mediation sessions. Feedback from stakeholders has suggested that this provides a major disincentive for separating or divorcing couples to resolve their disputes via family mediation.

What are the policy objectives and the intended effects?

The overall objective is for more divorcing and separating couples to make arrangements for their children and finances away from court, using mediation if appropriate. The intended effect will be that more couples progress from a Mediation Information and Assessment Meeting to full mediation and come to an agreement about finances and/or children arrangements without resorting to the court. This would reduce the volume of separating couples applying to court to resolve their disputes.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 0: Do Nothing

Option 1: The proposal to fund the first single mediation session after the MIAM to engage both parties in the mediation process.

The Government's preferred option is Option 1 as this should meet the policy objectives.

Will the policy be reviewed? It will be reviewed every six months for a period of three years.

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro N/A	< 20 N/A	Small N/A	Medium N/A	Large N/A
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: N/A		Non-traded: N/A		

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister:

Shailsh Vara

Date: 7 October 2014

Summary: Analysis & Evidence

Policy Option 1

Description: The Legal Aid Agency funds the non-legally aided party of a family mediation for the first single mediation session where the other party is already funded. Where a mediation is progressing to further sessions, the privately funded party will need to cover the fees for the additional sessions. Funding will run for a period of three years, subject to six-monthly reviews. As currently, no funding will be provided for mediations where neither party is legally aided.

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year*	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate**:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A		
High	N/A		
Best Estimate**	N/A		

Description and scale of key monetised costs by 'main affected groups'

There will be small transition costs to the Legal Aid Agency. These are expected to be below £50k.

Other key non-monetised costs by 'main affected groups'

There will be ongoing cost to the Legal Aid Agency for providing funding for the non-legally aided party in mediation currently taking place where the other party is already legally aided. There will be additional costs to the Legal Aid Agency where the policy leads to an increase in mediations where only one party is legally aided. There may be some cost to mediation providers in form of foregone income, as some may now need to charge a smaller fee for a first session for the non-legally aided party.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A		
High	N/A		
Best Estimate**	N/A		

Description and scale of key monetised benefits by 'main affected groups'

For reasons outlined in the evidence base, it has not been possible to accurately monetise the benefits from this policy.

Other key non-monetised benefits by 'main affected groups'

Private clients currently attempting family mediation where the other party is already publicly funded will benefit from a free first mediation session. This decreases their overall cost of family mediation. Where the policy leads to an increase in family mediation, mediation providers will benefit from an increase in demand; HMCTS may experience efficiency savings from a decrease in child arrangement and financial provision applications; and more separating/divorcing couples may benefit from a quicker and less stressful issue resolution process via mediation, with more stable long term outcomes.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

A number of simplifying assumptions have been made. Most of these relate to the behavioural response and include:

- Currently some couples attending a publicly funded MIAM do not proceed to full family mediation because the privately funded party faces a financial disincentive to do so. These couples then may progress to court.
- The number of mediation sessions needed to complete a mediation will not change as a result of the measure.
- More couples attending family mediation will raise the public profile of mediation services as a whole and will lead to more privately funded mediation taking place.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m			In scope of OITO?	Measure qualifies as
Costs: N/A	Benefits: N/A	Net: N/A	N/A	N/A

Evidence Base

Background

1. The Government wishes to encourage more couples to consider family mediation because compared to drawn out court procedures, it is quicker and cheaper. The average legal aid cost of resolving property and finance or children disputes following a divorce or separation is approximately £500 through mediation for a publicly funded client, compared to £4,000 for issue settled through the courts. The average time for a mediated case is 110 days compared to 435 days for non-mediated cases.
2. Mediation can be used to reach an agreement on finances and/or children arrangements following divorce or separation.
3. Around 115,000 children are involved in applications made to the court each year for an order about child arrangements; in 2013/14, approximately 68% of these applications centre on where a child should live or who they should see (formally referred to as child arrangement orders).
4. While these issues require a significant amount of judicial resource, the issues are rarely legal ones and usually seek to redress a dispute around the level of involvement of the parent who no longer lives with the child(ren). Anecdotal evidence suggests that in these instances, parents are often focussed on scoring points against the other parent and on what they might 'win' or 'lose' rather than what is in the best interests of their child(ren). A court order is by its nature inflexible and any breach of it by either parent can quickly become the focus for further conflict.
5. Practice and legislation has sought to prompt the consideration of all dispute resolution options:
6. Rules of Court introduced in April 2010 placed a general duty on the court to consider at all stages of a family case whether the use of dispute services such as family mediation could be an appropriate way to settle the dispute. The court can, if the parties agree, suspend the proceedings for this purpose.
7. In April 2011 a Pre-Application Protocol (PAP) introduced additional requirements to the Rules which directed that both parties in a children and financial matter would be expected to have first attended a MIAM in order to at least consider mediation. Certain exemptions apply, for example, where there is evidence of domestic violence.
8. The Children and Families Act (April) 2014 saw the introduction of the compulsory MIAM for an applicant for certain family court procedures and with the same exemptions. The expectation remains for the potential respondent to engage in the process but the legislative requirement is directed solely at the applicant.
9. The Government continues its programme of work to improve information, advice and signposting to separating couples and parents. This includes the benefits of family mediation and how access to mediation requires as a first step, attendance at a Mediation Information and Assessment Meeting (MIAM) for all applicants.
10. General awareness and understanding about the availability of family mediation in resolving private law disputes remains low. There is also a degree of misconception about what it is, for example, that it is therapy or about reconciliation. Qualitative findings from Phase One of a MoJ research exercise on MIAMs and Mediation in Private Law Disputes found that most clients' first thought when considering dispute resolution methods had been to go to a solicitor; mediation

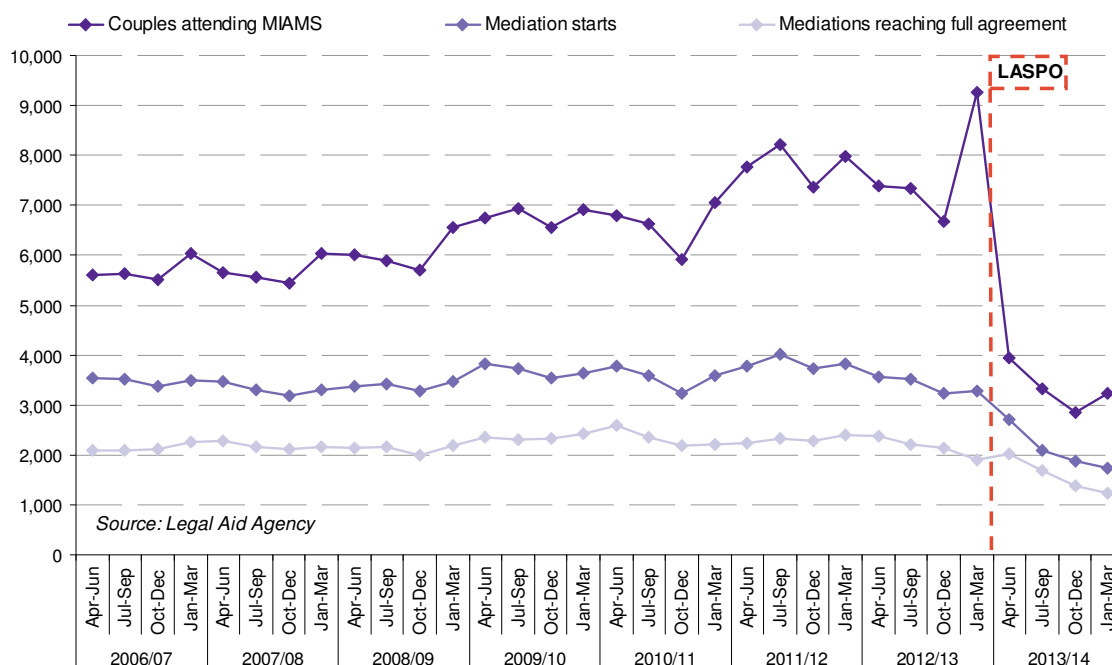
was not at the top of their mind.¹ The 2012/13 Crime Survey for England and Wales indicated that just over half of adults (53%) said they were aware of mediation as an alternative to court.²

11. In order to encourage uptake of mediation it has been a longstanding Government policy to pay the costs arising from the MIAM for both participants in cases where only one is eligible for legal aid. Public funding has been available since 1997 when the requirement to attend a MIAM was first introduced, in order to qualify for funding in private law cases.
12. Currently, for all subsequent mediations, a means test applies and legal aid is provided only for the parties who pass the means test; the other party has to pay the fees in order for the mediation to go ahead if not eligible. In practice, this has acted as a disincentive for mediation for the non-legally aided person.
13. The Family Mediation Taskforce Report was published in June 2014 and recommended that “the Legal Aid Agency (LAA) should fund the non-legally aided person for the first single session mediation for a period of three years.”
14. Ministers have agreed that the LAA will fund a single mediation session (the first single mediation session to take place after the MIAM) in all cases where one of the parties is eligible for legal aid. Ministers intend for this change to apply for a maximum period of three years, subject to reviews on a six monthly basis.

Policy rationale and objective

Rationale

15. Following the implementation of the legal aid reforms in April 2013, which removed most private law applications out of the scope for public funding, there was a significant drop in the number of MIAMs and mediation starts – illustrated in the graph below.



¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319365/public-experience-family-justice-system.pdf

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300260/mediation-information-assessment-meetings.pdf

16. The Family Mediation Task Force, chaired by David Norgrove, was strongly of the view that where one participant was legally aided, the fact that the second participant would have to pay for the mediation session was a major disincentive for them to proceed. This was partly because of the cost, but also out of resentment that their ex partner had (in their eyes) forced them into this situation but they were getting mediation for free.
17. The policy objectives therefore are to:
 - a. encourage more people to use mediation as a dispute resolution option; and
 - b. facilitate the engagement of the second participant by removing the financial obstacle.
18. The Family Mediation Task Force considered and recommended a number of financial options to ministers (Family Mediation Task Force Report: June 2014³).
19. The Ministry of Justice welcomed the recommendation that the “LAA should fund the non-legally aided person for the first single session mediation for a period of three years [where one party is already funded].” It was assessed that this recommendation meets the objective to encourage and facilitate non court resolution of family disputes, particular the potential respondent who is not obliged by the legislation to attend an Assessment Meeting. Anecdotal feedback informs us that often the reason for mediation not proceeding is the lack of engagement by the other (non-compelled) party.
20. A number of other recommendations were rejected as they were thought not to meet the broader policy objectives. A full list of recommendations and a government response was published in August 2014⁴.

Description of options

Option 0: Do Nothing

21. Under the ‘do nothing’ base case, the current system would continue to apply. Currently, regarding full mediation a means test applies and legal aid is provided only for the parties who pass the means test; the other party has to pay the fees in order for the mediation to go ahead if not eligible.

Option 1: Introduce secondary legislation to fund the first single mediation session where one party is already funded

22. The Legal Aid Agency funds the non-legally aided party of a family mediation for the first single mediation session where the other party is already funded. Where mediation is progressing to further sessions, the privately funded party will need to cover the fees for the additional sessions. Funding will run for a period of three years, subject to six-monthly reviews. As currently, no funding will be provided for mediations where neither party is legally aided.

Affected Stakeholder Groups, Organisations and Sectors

23. The following principal groups are likely to be affected by the proposals:

³ [Family Mediation Task Force report](#) (PDF)

⁴ [Simon Hughes letter to mediators and others working in the family justice system](#) (PDF)

- a. Separating and Divorcing couples and parents / would be Court Users – those who use the family court system particularly those considering a court application to determine financial and/or children arrangements following divorce or separation;
- b. Family Mediators – who carry out the Mediation Information and Assessment Meeting (MIAM) and mediation sessions;
- c. Legal Aid Agency (LAA) – If litigants or appellants are eligible for legal aid the mediator will claim fees from the LAA for work done on the parties' behalf;
- d. HM Courts & Tribunals Service – who administer the family court system.
- e. Solicitors – who provide legal advice and in-court representation to separating or divorcing couples.

Costs and Benefits

24. This Impact Assessment identifies impacts on individuals, groups and businesses in the UK, with the aim of understanding what the overall impact to society might be from implementing these options. The costs and benefits of each option are compared to the do nothing option. Impact Assessments place a strong emphasis on valuing the costs and benefits in monetary terms (including estimating the value of goods and services that are not traded). However there are important aspects that cannot sensibly and proportionately be monetised. These might include how the proposal impacts differently on particular groups of society or changes in equity and fairness, either positive or negative. In this case a largely qualitative assessment has been provided for most of the costs and benefits.

25. We expect the policy to impact on the mediation market in three distinct ways:

- a. It affects the payments currently made for mediation services where one party is legally aided – this applies to approximately 55% of mediations currently taking place.
- b. It may increase the uptake in mediation services, as it reduces cost to the non-legally aided party in cases where one party is already publicly funded.
- c. There may be a spill-over effect where the policy raises the profile of family mediation more broadly. This may increase the overall number of mediations taking place where neither party receives public funding.

26. An indication of the magnitude of the costs and benefits has been provided where possible. The key assumptions and background data are considered below, including an indication of how firm the assumptions are.

Key data and assumptions

Background data

27. A recent report estimates that there are around 2.5 million separated families with dependent children (including 16–20 year olds in education) in Britain.⁵ Other sources suggest that around a

⁵ Punton Li, Finch, D. and Burke, D. (2012) Separated families and child maintenance arrangements, Great Britain 2011. London: Department for Work and Pensions.

quarter of the 12 million children in the UK have experienced parental separation during their childhood⁶. It is estimated that between 200,000 and 250,000 parents separate each year.⁷

28. The Ministry of Justice does not centrally collect data on volume and outcomes of purely privately funded family mediation. However, the Legal Aid Agency collects data on mediation where at least one party is legally aided.
29. In 2013/14,
 - a. 8,400 couples attempted a publicly funded mediation – this decreased from 13,609 mediation starts in 12/13
 - b. In approximately 55% of mediations concluding in 13/14 only one party was legally aided.
 - c. Of mediations closed in 2013/14, approximately 68% reached an agreement. This remained broadly stable over recent years between 60% and 70%.

Assumptions

For the purposes of assessing the costs and benefits of this policy in this IA a number of simplifying assumptions have been made. The sensitivity of costs and benefits to varying these assumptions is also considered.

30. It has been assumed that the total volume of separating or divorcing couples is likely to remain the same, and that the reforms will more narrowly affect the amount of couples seeking mediation to settle their disputes. There is no reason to consider that the volume of separating or divorcing couples will rise as a result of the provision of additional funding for family mediation.
31. The Government does not centrally record data on the number of fully privately funded mediation. However, it has been assumed that the reforms will not have a negative impact on the number of couples seeking fully privately funded mediation, as the measure provides additional public funding only for mediation where one client is already legally aided.
32. It has been assumed that mediation is quicker and less stressful for separating or divorcing couples, and that mediation leads to more stable long term outcomes. This assumption is supported by research⁸ which shows that clients are less likely to use additional legal advice services following mediation than following legal representation.
33. We have assumed that there will be some increase in the number of mediation starts as a result of the policy from current position. This is because the policy reduces the financial disincentive for the privately funded party to proceed with mediation. However, the Legal Aid Agency currently does not hold information on the number of couples attending a MIAM where only one party is legally aided. Therefore, it has not been possible to estimate the amount of additional mediation starts.
34. It has been assumed that mediation providers will charge the same fees to privately funded clients post implementation as they currently do. We have also assumed that the cost to family mediators of providing a mediation session does not change.
35. We have assumed that mediation providers would only offer mediation services to legally aided clients if the expected benefit of doing so was higher than the expected cost.

⁶ Cited in Peacey, V. and Hunt, J. (2008) Problematic contact after separation and divorce? A national survey of parents. London: Gingerbread.

⁷ DCA/DfES/DTI (2004) Parental separation: Children's Needs and Parent's Responsibilities. London: DCA/DfES/DTI.

⁸ Quartermain, S. (2011) Sustainability of mediation and legal representation in private family law cases
Analysis of legal aid administrative datasets, London: Ministry of Justice.

36. We assumed that the number of mediation sessions needed to reach agreement (or close the mediation without agreement) does not change. For example, this implies that where a mediation session with only one legally aided party currently takes on session to reach an agreement, the mediation will also only last one session under the proposed changes.

Costs of Option 0

37. Under the 'do nothing' base case, the current system would continue to apply. The 'do nothing' option is compared against itself and therefore its costs and benefits are necessarily zero, as is its Net Present Value (NPV).

Costs of Option 1

Transitional costs

38. The implementation of the proposed measure will require changes to the Legal Aid Agency ICT system. The Legal Aid Agency will also incur small costs regarding necessary changes to the LAA Claiming Guidance, and caseworker and mediator training. These are likely to be below £50k.
39. There will be some minor transitional costs to the Ministry of Justice and HM Courts and Tribunal Service as information materials will require changes to reflect the new position as will Practice Direction 3A.
40. Mediation services and other practitioners will have some transition cost as they may need to change any literature which included information on fees and/or public funding. We assume that this will partly be covered by general updating of information material.

Ongoing Costs

Separating and Divorcing Couples

41. No costs to separating and/or divorcing couples have been identified. The policy reduces the disincentive to progress with a mediation following a compulsory Mediation Information and Assessment Meeting, and couples remain free to choose whether they apply for a court order or opt for mediation services.

Family Mediation Providers

Static cost

42. Where a mediation provider currently charges a privately funded client more than the Legal Aid Agency pays per client for a first (single) session, the mediation provider will incur cost in form of foregone income. The scale of this impact will depend on the number of first sessions to which this scenario applies, and the difference between the fees. For indicative reference, the Legal Aid Agency currently funds the first session of a mediation with £84 per legally aided client.

Behavioural response

43. We do not expect any additional cost to mediation providers regarding new mediation starts resulting from the proposed measure. Family mediation providers can choose whether they

provide mediation services for publicly funded clients, and would only opt for doing so if the expected benefits exceeded the expected costs.

Legal Aid Agency

Static cost

44. Where currently only one party is legally aided, the LAA would fund the first session for the non-legally aided party, too. This would cost the LAA £84 (50% of £168) per mediation start. As an illustration, in 2013/14 this would have affected approximately 4,620 mediations.

Behavioural response

45. In addition to the static cost, the total cost to the Legal Aid Agency depends heavily on the behavioural response to the proposed measure.
46. For each additional mediation start that takes place as a behavioural response to the policy there will be additional cost to the Legal Aid Fund of £168 (current fee for a single session mediation - £84 paid for both legally aided and non-legally aided party).
47. In addition, there would be cost to the Legal Aid Fund where a new mediation start would result in an agreement, as the Legal Aid Agency would need to fund half of the agreement fee for the legally aided party. The exact agreement fee depends on the type of mediation and ranges between £126 for Child Mediation and £252 for All Issue Mediation. Over recent years, the proportion of mediations reaching agreement remained broadly stable between 60% and 70%.

HM Courts and Tribunal Service (HMCTS)

48. Currently, mediation agreements are not legally binding. Therefore, there may be some additional work for courts where the new agreements reached in mediation needed to be turned into court 'orders by consent'. This will mainly affect Property and Financial Issues mediation. The additional cost is assumed to be mitigated entirely by a simultaneous reduction in court work regarding contested financial provision applications.

Solicitors

49. A reduction in court proceedings for Financial Provision and Child Arrangements orders could have a negative impact on the demand for solicitors for in-court representation and legal advice pre-proceedings. This may be partially mitigated by some additional demand for solicitors to provide legal advice throughout the mediation process and to help draw up an order in mediation dealing with financial and property issues.

Benefits of Option 1

Separating and Divorcing Couples

50. Where privately funded clients currently progress with mediation, and the other party is legally aided, the non-legally aided party will benefit from reduced cost of mediation as the cost of the first mediation session will be covered by the Legal Aid Agency. The actual amount of fee reduction depends on the fees currently charged to privately funded parties by mediation providers. As an indicative point of reference, the Legal Aid Agency currently pays mediation provider £84 per legally aided client.

51. Clients in scope of legal aid for mediation may benefit where under the proposed policy privately funded parties agree to progress with mediation and would not have done so otherwise. Currently, some of these clients seek resolution via court where they do not receive legal aid, i.e. need to pay for court fees and legal advice privately. A court application for child arrangement order costs £215. An application for a financial remedy order costs £255.
52. If more couples mediate successfully this could lead to a positive impact on children who maintain their relationship with both parents, where it is safe to do so, and separated/divorced couples communicate and parent in a more collaborative way.

Mediation Providers

53. Where a mediation provider currently charges a privately funded client less than the Legal Aid Agency would pay per client for a first session, the mediation provider would benefit from additional income. The total magnitude of this benefit will depend on the number of first sessions to which this scenario applies, and the difference between fees.
54. Mediation providers are also expected to benefit from a higher volume of mediation starts where only one party is legally aided. The full extent of this benefit depends on the unit cost of a mediation session and the fees mediation providers charge privately funded parties where the mediation progresses to further sessions. In addition, where the policy leads to more agreements reached, family mediation providers could benefit from additional fee income from agreement fees.
55. An increased client base could potentially contribute to a raised profile of mediation services as a whole and contribute towards making family mediation a mainstream choice for dispute resolution. This could lead to increased demand for privately funded mediation and providers could charge competitive fees.

Legal Aid Agency

56. We do not expect cashable or non-cashable benefits to the Legal Aid Agency as a result of the proposed measure.

HM Courts and Tribunal Service (HMCTS)

57. Where more couples mediated successfully, the proposed measure could result in fewer applications for Finance and/or Child Arrangement orders. The magnitude of this impact depends on the take up of mediation as a result of the policy, and on the success rate of these additional mediations.
 - a. Fewer court proceedings for Finance and/or Child Arrangement orders could result in direct benefits to HMCTS and the Judiciary. Currently, a private law children case results, on average, in net loss to HMCTS of approximately £700.
 - b. Fewer court applications would also reduce the resource pressure on courts regarding private family law proceedings. Judges, Magistrates and HMCTS staff would be freed up to dedicate more time to other productive activities, such as dealing with more complex cases more intensely.
 - c. In addition, reducing application volumes of private family law cases will reduce pressure on HMCTS estate and contribute to the reform of the courts and tribunals, which will deliver a widespread modernisation of HMCTS estate and a more effective use of courtrooms.

Solicitors

58. There may be some additional demand for solicitors to provide legal advice throughout the mediation process and to help draw up an order in mediation dealing with financial and property issues. This may partially mitigate the impact a reduction in court proceedings could have on the demand for solicitors for in-court representation and legal advice pre and during the proceedings.
59. Demand for solicitors with a Legal Aid contract may be positively affected in particular as more mediation clients are eligible for legal aid. However, current take up of 'Legal Help with Mediation' has been low (in 2013/14 8,400 mediation cases were started but Legal Help with Mediation was accessed less than 100 times).

Net Impact of Option 1

60. We expect that implementing the proposed measure would result in a net benefit to society. The efficiency savings to HMCTS through a reduction in private law workload, as well as the benefit to separating couples from reduced fee payments to mediators as well as a less stressful separation process with more stable outcomes would outweigh the additional cost to the Legal Aid Agency. The exact magnitude of the net benefit depends heavily on the behavioural response to the policy. For reasons outlined above it has not been possible to quantify this.
61. In addition, the net benefit would be larger where the proposed measure contributed to a wider awareness of family mediation as a successful dispute resolution, and more privately funded couples would resolve their issues via mediation rather than going to court.

Risks and Assumptions

62. The sensitivity of the costs and benefits to changed underlying assumptions are summarised below.

Assumption	Sensitivity of costs and benefits to changing the assumption
<p>We assume that there is some increase in the number of mediation starts as a result of the policy compared to the baseline.</p>	<p>The degree to which mediation take-up increases as a result of the policy will directly impact on the scale of the impacts. An increase in the number of couples attending mediation will increase the cost to the LAA, but also proportionately increase the benefit to HMCTS and separating couples.</p> <p>Where the policy does not lead to an increase in the number of mediating couples, the Legal Aid Agency will still face the static cost of providing funding to the privately funded party where the other party is already funded. This would reduce cost of mediation for the non-legally aided party. No other benefits would be realised.</p>
<p>We have assumed that mediation providers will charge the same fees to privately funded clients post implementation as they currently do.</p>	<p>It is possible that mediation providers increase the fees for privately funded parties to mitigate any potential losses from the policy. This would reduce the potential savings to privately funded parties from the policy. This might also negatively impact on private mediation, where an increase in the fees could lead to a reduction in the number of couples seeking mediation.</p>
<p>We have assumed that the number of mediation sessions needed to reach agreement (or close the mediation without agreement) does not change. For example, this implies that where a mediation session with only one legally aided party currently takes on session to reach an agreement, the mediation will also only last one session under the proposed changes.</p>	<p>The privately funded party can now attend two mediation session to the same cost to which they currently attend one mediation session. Therefore there is a risk that the privately funded party will use this cost reduction to extend the number of sessions, for example in an effort to achieve better outcomes. This could lead to an increase in the proportion of multisession mediation where one party is legally aided, which would put an additional burden on the Legal Aid Agency as they fund multisession mediation at a multiple of the single session fee.</p>